



PARLIAMENTARY PRIVILEGES

**DIGEST OF CASES
1950-2000**

VOLUME-II

**LOK SABHA SECRETARIAT
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Corrigenda to Parliamentary Privileges : Digest of cases 1950-2000 (Volume –II)

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MPLAD SCHEME

Lok Sabha

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517.	Alleged casting of reflections of the Chairman by an ex-MP - (1990)—Minister of Information and Broadcasting the Parliamentary Affairs (Shri P. Upendra) moved a resolution resolving that Shri K.K. Tiwari be issued notice, summoned to the bar of the House and be reprimanded. Resolution was unanimously adopted by the House. Shri K.K. Tiwari was accordingly reprimanded and was directed to withdraw. Shri Tiwari then withdrew.	749

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REFLECTIONS ON OTHER HOUSE AND/OR ON ITS MEMBERS

Parliament of India

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Lok Sabha

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530.	Reference of a question of privilege against a Union Minister and Member of Lok Sabha by a Legislative Assembly to their Committee of Privileges (1984)—Speaker observed that it is a well established convention that if a <i>prima facie</i> case of breach of privilege or contempt of the House is made out against a member who belongs to another Legislature, the matter is reported to Presiding Officer of that Legislature for taking such action as he considers necessary.	765
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535.	Certain allegation against a member made by a Minister who was a member of the other House (C.P.N. Singh Case) (1980)—Matter closed after Chairman observed <i>inter alia</i> that the Minister should not have made the charge on such doubtful evidence.	767
536.	Certain allegations by a member against a Minister who was a member of the other House and publication of news reports on the basis of the allegations—(Margaret Alva Case 1980)—Committee recommended that in view of Shrimati Alva's clarification, the matter need not be pursued further—No further action was taken by the House in the matter.....	767

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Lok Sabha

537.	Premature disclosure of the proceedings of and casting reflections on the Joint Committee on a Bill (1958)—Committee recommended that having regard to the unqualified and sincere apologies offered by the editor of the Hindustan Standard, Calcutta, no further action be taken in this case—No further action was taken by the House.	771
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540.	Casting aspersions on a Parliamentary Committee by a newspaper (Bharat Jyoti Case) (1965)—Matter closed after Editor expressed regret.	773
541.	Comments on the Report of Parliamentary Committee by an officer in newspapers (1965)—Matter closed after the concerned officer tendered apology.	774
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543.	Alleged contempt of the House and of a Parliamentary Committee by certain statements made by a Minister in the House and before the Committee (1966)—Speaker ruled that the matter did not constitute breach of privilege.	774
544.	Aspersions cast on a parliamentary Committee in an article published by a newspaper (Financial Express Case) (1969)—Editor expressed regret and Committee recommended that no further action be taken in the matter.	775
545.	Reflections on a Parliamentary Committee contained in a written statement filed by Government before a Commission of Inquiry and certain reported statements made by Government Counsel before that Commission (1972)—Committee recommended that in view of the explanation and apology tendered by Minister concerned, the matter might be dropped—No further action was taken by the House.	776
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549. Certain observations made by a Counsel and a Judge of the Calcutta High Court regarding the recommendations of the Committee on Public Accounts contained in its Report (1979)—Speaker disallowed the question of privilege after obtaining views of PAC. 782
550. Alleged derogatory remarks made by former Chairman of a Public Undertaking in a press interview regarding certain reports of a Parliamentary Committee of the previous Lok Sabha and its Chairman (J.R.D. Tata Case) (1980)—Committee recommended that considering the apology tendered by Shri Tata, no further action be taken by the House in the matter—House negated a Motion for taking into consideration Report of Committee. 784

Rajya Sabha

551. Alleged contempt of the House and of a Parliamentary Committee by certain statements made by a Minister in the House and before the Committee (1966)—Chairman ruled that there was no case of breach of privilege. 785

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552. Reflections on the impartiality of the Speaker (1950)—Editor expressed regret in a letter to the Speaker and published it in his newspaper. 789

Parliament of India

553. Casting reflections on the Chair's impartiality (1951)—Deputy Speaker disallowed the question of privilege. 789

Lok Sabha

554. Casting aspersions on the Speaker and the House in a printed pamphlet (1960)—Committee held that a breach of privilege had been committed but recommended that the House would best consult its own dignity by taking no further notice of the matter 791
555. Casting aspersion on the Speaker by a news magazine (Times Case)—Matter closed by the House after the correspondent of the magazine tendered apology 791
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557. Casting reflections upon the Speaker and members of a Parliamentary Committee (Sally Case) (1966)—Committee held that the article constituted a breach of privilege of the House, but in view of unqualified apology, no further action was recommended—Report of Committee adopted by the House 793

558.	Attributing <i>mala fide</i> to the Speaker in a Writ Petition filed before High Court by a Member (Madhu Limaye Case) (1965)—Committee held that breach of privilege was committed but recommended that no further action be taken in view of regret expressed by member	793
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Rajya Sabha

572. Alleged casting of reflections on the Chair by a journalist (1983)—Chairman disallowed the question of privilege 804

REMOVAL OF MEMBER FROM HOUSE/PRECINCTS**Lok Sabha**

573. Removal of a member from the precincts of the House after rising of Lok Sabha under orders of Speaker (Swami Remeshwaranand Case) (1965)—Speaker ruled that there was no question of breach of privilege 809

Rajya Sabha

574. Eviction of a member from the Parliament House Estate (Sitla Ram Singh Case) (1971)—Chairman observed that member could not be allowed to use the precincts of Parliament House for staging demonstrations etc 809

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Rajya Sabha

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WITNESS

Lok Sabha

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(Ivi)

MISLEADING STATEMENTS

225

HOUSE OF THE PEOPLE (1952)

Point of privilege

Alleged misleading of the House by a member by making a false statement

Facts of the Case and reference to the Committee of Privilege

On the 11th June, 1952, during the discussion on the Demands for Grants relating to the Ministry of Defence, Dr. Satyanarain Sinha, referred to the speech of Shrimati Renu Chakravartty, another member, on the previous day and stated:

"I have heard very attentively the speeches made from the Communist Benches, and specially one speech made yesterday by the hon. lady Communist member of the House (Shrimati Renu Chakravartty). I have compared her speech and found that it was word to word—I would say the general line—from an article written by one Lemin in the month of February. It has 13,500 words. It is here in many hands, and here is the speech of the hon. lady."

2. The Speaker calling Dr. Sinha to order observed:—

"..... It is no use the hon. member making allegations that another hon. member read something word by word. That is not a proper way of doing it. Anybody is entitled to adopt the arguments of any other person..... The hon. member takes care to see that he does not make any personal allegations of that type."

3. On the 12th June, 1952, Dr. Sinha laid the following documents on the Table:—

- (i) A typed copy of Draft Secret Protocol.
- (ii) Extracts of certain articles from the "Current Digest of the Soviet Press."
- (iii) A Soviet Map published in 1950 showing Kashmir as British.

4. On the 17th June, 1952, Shri A.K. Gopalan a member addressed a letter to the Speaker requesting for his consent to raise the following question of privilege of the House:—

"That the House of the People was misled by an hon. member of the House who made false statement to the House in the course of the debate on Defence Budget on 11th day of June, 1952, by stating that the speech of another member of the House, namely, Mrs. Renu Chakravartty, was made to order and was the reproduction of a speech sent in advance by some persons outside India and thereby the said Dr. Satyanarain Sinha made breach of privilege of the House."

Further that the said Dr. Satyanarain Sinha also committed breach of privilege by laying on the Table unauthenticated copies of documents whose genuineness is in question."

5. On the 23rd June, 1952, the Speaker referred the matter to the Committee of Privileges and observed, *inter alia*, as under:—

"In view of the complicated and mixed character of the issues involved in this matter, I have preferred to refer this matter to the consideration of the Privileges Committee of the House instead of deciding it myself or constituting a special Committee only for the purpose of examining the genuineness or otherwise of the documents produced by Dr. Sinha on the 12th June, 1952. The Committee will go, not only into the limited question of genuineness or otherwise of the documents produced, but also of allied questions including the question of any breach of privilege and other incidental matters as also the question of standards expected of a member of this House."

Findings and recommendations of the Committee

6. The Committee of Privileges in their Report, presented to the House on 12th December 1952, reported *inter alia* as follows:—

- (i) "The Committee compared the speech of Shrimati Renu Chakravartty with the article by one Mr. I. Lemin entitled 'Far East—India-Pakistan', as published in the Current Digest of the Soviet Press, dated the 26th April, 1952. Though there

appears to be some similarity in approach, it would be incorrect to say that Shrimati Renu Chakravarty's speech was 'word for word' on 'in general line' after Lemin's article. In as much as Dr. Sinha stated in the House at the time he was speaking that he had in his hands Lemin's article, it is obvious that he was prepared to show it to anybody who was interested in verifying his statement. Therefore it really becomes a matter of opinion whether the inference sought to be drawn by Shri A.K. Gopalan, was well-founded or not."

- (ii) "The words used by Dr. Sinha in his speech on the 11th June, 1952, do not appear to reflect upon Shrimati Renu Chakravarty nor do they lead to the assumption that he wanted to create an impression in the minds of the members of the House or of the public that Shrimati Renu Chakravarty's speech was tutored since any member is entitled to say that the arguments advanced by another member are a repetition of those which had been used earlier by somebody else."
- (iii) "In the circumstances the Committee feel that there is no question of breach of privilege involved in a matter like this."
- (iv) "As regards the charge 'that the documents placed on the Table of the House by Dr. Satyanarain Sinha were false, fabricated and forged', the Committee have on investigation found that they are copies from the three issues of a regular printed magazine and a German book which are available for the use of public in general."
- (v) "In the light of these facts Dr. Sinha cannot be said to have 'forged or fabricated' the documents which he presented to the House. The Committee is therefore of the opinion that this charge has not been proved and no breach of privilege is therefore involved on this ground also."
- (vi) "On the question of the standard expected of a member of the House, the Committee consider that both Dr. Satyanarain Sinha and Shri A.K.

Gopalan have acted on the spur of the moment and on inadequate consideration of the issues involved. The former should have thought more carefully before alleging that Shrimati Renu Chakravarty had based her speech on Lemin's article and the latter would have done well to verify that the papers laid on the Table by Dr. Satyanarain Sinha were in fact forged or fabricated. The Committee feel that it is wrong to take advantage of the protection afforded to speeches in the House and to level charges which are not founded on facts."

Action taken by the House

7. No further action was taken in the matter by the House.

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LOK SABHA
(1958)

Point of privilege

Alleged misleading statements made by a Minister in answer to questions

Facts of the case and ruling by the Speaker

On the 11th February, 1958, Shri A.K. Gopalan and three other members gave notice of a question of contempt of the House, alleging that the Minister of Finance (Shri T.T. Krishnamachari), while making certain statements in the House in answer to Starred Questions Nos. 1476 and 659 on the 4th September, and 29th November, 1957 respectively, regarding certain investments made by the Life Insurance Corporation had "distorted facts and also indulged in prevarication which clearly amounted to a contempt of Parliament as it is understood in the House of Commons, U.K."

The members further stated that since no question of contempt had so far been raised in Lok Sabha, they had necessarily to borrow the procedure of the British House of Commons in view of Article 105(3) of the Constitution. The members had also cited in support of their contention the following passage from p. 109 of *May's Parliamentary Practice*:

"that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or

indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence."

2. On the 12th February, 1958 the Speaker (Shri M. Ananthasayanam Ayyangar) informed the House of the notice and observed that a regular procedure had been laid down in the Directions¹ issued by the Speaker under the Rules of Procedure for pointing out the particulars of the mistakes or inaccuracies in the statements made by the Minister on the floor of the House. Further, the Speaker must be satisfied that *prima facie* there was some evidence that the statement made in the House was inaccurate. Mere statement in the Press or elsewhere was not enough.

He, therefore, stated that he would consider the matter and give his ruling later.

3. Shri A.K. Gopalan stated that it was not a question of mistake or inaccuracy but a question of calculated distortion of facts given to the House. No procedure had been laid down in the Rules of Procedure for raising such questions. No precedents on the subject were also available either in Lok Sabha or in the House of Commons.

He, therefore, reiterated that as it was an important matter affecting, *inter alia*, the very functioning of the House, necessary permission to raise the matter might be given.

The Speaker, however, reserved his ruling.

4. On the 13th February, 1958, the Speaker gave the following ruling:—

"The point that was raised yesterday by Shri A.K. Gopalan and others was regarding certain answers to certain questions relating to the L.I.C. and these questions have been referred to in the notice.

There have been since proceedings before Mr. Justice Chagla and his report has also been laid on the Table. The hon. member says

in his notice that the evidence that was given there is inconsistent with the answers given on the floor of the House, and as such, it is not an ordinary incorrect statement, but goes to the root of it and, therefore, it is a breach of privilege of the House, or if not a breach of privilege of the House, it is a contempt of the House.

This consists of two portions. The portion that he refers to in the evidence given before the Commission by way of contradiction to the statements made on the floor of the House—these details have not been given. Of course, they could have been gathered from the newspaper reports.

I have not been convinced about the admissibility of the notice. I am going to rule that it is not admissible. No contempt proceedings can be started on this allegation, even assuming this allegation to be true. Inconsistent statement is a mere irregularity, even if deliberately made. This is not the procedure to be adopted. On that issue, I am disposing of it and therefore it is not necessary to call for any details of the inconsistency. If I agree that it is admissible as a case of contempt, then alone the question of calling for details of inconsistency may arise. Even if a Minister should have made one statement here and deliberately omitted to state or deliberately made an incorrect statement, that may be a matter of misconduct on the part of any member. Misconduct on the part of a Minister ought not to be raised by way of contempt of the House. There are other means such as censure etc.

Wherever some mistakes are committed, there is a provision by way of Direction 115 by the Speaker that mistakes may be brought to

¹Direction 115 lays down:—

"(1) A member wishing to point out any mistake or inaccuracy in a statement made by a Minister or any other member shall before referring to the matter in the House, write to the Speaker pointing out the particulars of the mistake or inaccuracy and seek his permission to raise the matter in the House.

(2) The Member may place before the Speaker such evidence as he may have in support of his allegation.

(3) The Speaker may, if he thinks fit, bring the matter to the notice of the Minister or the Member concerned for the purpose of ascertaining the factual position in regard to the allegation made.

(4) The Speaker may then, if he thinks it necessary, permit the Member who made the allegation to raise the matter in the House and the Member so permitted shall before making the statement, inform the Minister of the member concerned.

(5) The Minister or the Member concerned may make a statement in reply with the permission of the Speaker and after having informed the other Member concerned."

the notice of the House. Any member may point out these mistakes and the Minister may correct them and he may be given an opportunity to do so. The hon. members who have tabled this notice say that it ought not to be treated as a mere mistake, that it is a serious matter and that it ought to be taken notice of by way of contempt. They referred to page 109 of *May's Parliamentary Practice* relating to privileges and contempts.

It says:

'...any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.'

So far as the House of Commons is concerned, I have looked into *May's Parliamentary Practice* and it is also admitted by Shri A.K. Gopalan that they have not been able to trace any precedent where any Minister in the House of Commons or in the British Parliament made a wrong statement or even deliberately gave an answer on the floor of the House which was not correct and where he was charged for contempt. Therefore, there is no precedent from the House of Commons practice.

So far as this House is concerned, there is an earlier case which is directly in point. Another case occurred in the Delhi State Assembly. It may not be an authority but in the absence of any authority from *May* or any other precedent, we have a precedent here and that may also be referred to for the purpose of throwing light on this matter. In the first case, Shri C. Subramaniam and Shri Ramnath Goenka, M.Ps., gave notice on the 23rd March, 1951 of an alleged breach of privilege to the effect that in the Statement of Objects and Reasons of the Indian Tariff (Amendment) Bill, 1951—this is after the Constitution came

into force and article 105(3) had become applicable—it had been stated that sago globules, calcium lactate etc. industries were to be given protection for the first time for which Parliament's sanction was sought, whereas in the Administrative Report of the Ministry of Commerce and Industry issued in February 1951 it had been stated that the Government had accepted the Tariff Board's recommendations and granted protection to sago globules, calcium lactate etc. industries. In this case, the Statement of Objects and Reasons which was supposed to inform the House regarding this matter stated that for the first time protection was sought for, whereas in the Administrative Report issued by the same Ministry it was stated that it had already been granted and acted upon. And then hon. members, as Shri Gopalan has done now, brought this discrepancy to the notice of the Speaker.

Shri Mavalankar, my predecessor, recorded the following note on that notice:

'I have not been able to appreciate as to how there is any breach of privilege of Parliament. The substance of the allegations seems to be that the Minister concerned, or the Government have not made the fullest disclosure, or have made misleading statements. This may be regrettable, but I do not understand how this constitutes a breach of privilege even if it be assumed that the failure to give full or correct information was intentional.'

There is another case of the Delhi State Assembly. A question of privilege was raised on the 2nd April, 1956 by Shri Kanwarlal Gupta, a member of the Delhi Vidhan Sabha, on the ground that the Chief Minister of Delhi had made a wrong statement in the House regarding a letter written by him to the Chief Minister of Bihar. After the member and the Chief Minister had explained the position, the Speaker gave the following ruling:

'We have the same privileges as are enjoyed by the House of Commons and we cannot create any new privilege. In order, therefore, to determine whether a wrong statement made in the House even deliberately constitutes a breach of privilege, I have to see whether such a question has ever been raised in the House

of Commons. I have gone through all the references, *May's Parliamentary Practice*, and other person dealing with the question of privilege in the House of Commons, and I have not been able to lay my hands on any such precedent. It is thus clear that a question has not been raised or decided as a breach of privilege of the House on this issue. I admit that there is some inconsistency in the Chief Minister's statement in the House in reply to the point raised by Shri Kanwar Lal Gupta and the letter written by him to the Chief Minister of Bihar, but as I have stated, it does not involve any breach of privilege of the House. The hon. member can seek other remedies provided under the rules if he is not satisfied with the explanation and apology of the Chief Minister.'

Therefore, it is neither a case of privilege nor even a case of contempt. There have been no cases, so far as this particular matter is concerned, in the House of Commons. So far as we are concerned, it is pointed out by Shri Gopalan that it is not only a breach of privilege, but it may also be treated as contempt, if possible. Shri Mavalankar said that even it should be deliberate and intentional he did not consider it to be a breach of privilege or contempt of the House.

The general provision in *May's Parliamentary Practice* refers to obstruction. Many things obstruct. I do not know how in this case any obstruction was caused. Therefore, in the case of some statement made here, even deliberately, which is inconsistent with a statement already made, or which even amounts to a suppression or distortion of particular facts, this is not the remedy. There are other remedies.

I remember a case where Shri Gopalan himself was involved here. I will ask him to remember that matter. The member from Salem made a remark that during the elections Shri Gopalan was present and made all sorts of statements. At that time Shri Gopalan was not present, but Shri Anandan Nambiar was present. Shri Gopalan had been to Calicut. Shri Gopalan wanted to bring this to the notice of the House and also wanted to know what could be done in the House. I only said that if the statement was made outside, he could prosecute the member for defamation or for any other thing, but so far as this House was concerned all that I could do was to allow

Shri Gopalan to make a statement in reply to the member from Salem.

The misconduct of a member can always be brought up, as we have dealt with misconduct of members or Ministers.

This is misconduct of a Minister at best. Therefore, this is not a matter of privilege or contempt. Therefore, I am sorry I am not able to grant permission to raise this matter."

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LOK SABHA
(1964)

Point of privilege

Alleged incorrect statement made by a Minister in the House.

Facts of the case and ruling by the Speaker

On the 10th March, 1964, the Speaker (Sardar Hukam Singh) informed the House that he had received notice of a question of privilege from Shri Kishen Pattnayak, a member, relating to the statement made by Shri B.R. Bhagat, Minister of state for Finance, when he was replying to the allegation made by Dr. Ram Manohar Lohia, another member, regarding appointment of one Shri Mehta to the U.P.S.C. The member had alleged that Shri Bhagat's statement was not complete and was incorrect. The Speaker further informed that after he had disallowed the notice, Dr. Lohia and Shri Pattnayak had seen him in his chamber and asserted that according to them, it involved a breach of privilege. The Speaker then observed as follows:--

I had considered this matter and argued with them also. I am definitely of the opinion that if any statement is made by any member or Minister which another member believes to be untrue, incomplete or incorrect, then there is no breach of privilege. This view has been held by my predecessors as well as by myself. There are other remedies by which it can be raised and the one that we have been adopting newly here is that if a member feels aggrieved or feels that a statement made by another member or Minister is not correct, be it during a discussion or during a *suo motu* announcement by a Minister, then he can write to me giving the portions that he believes to be incorrect or any suppressions or untruths that are contained in it. Then I ask the member or Minister who is accused of making that incomplete or incorrect statement and get his

statement also. I can allow them to make their statements on the floor of the House. If the dispute is not resolved, then the only remedy left is that they should be on the record or placed on the Table of the House for the members or for the public to judge who is right or who is not right. We cannot enter into any enquiry or investigation here. We cannot take it up, appoint any committee or get any documents or other things. Therefore, I am sorry I cannot agree with the plea of Dr. Lohia and Shri Kishen Pattnayak so far as that is concerned, and I cannot give my consent to it."

228

LOK SABHA

(1966)

Point of privilege

Alleged misleading statement made in the House by the Prime Minister.

Facts of the case and ruling by the Speaker

On the 18th April, 1966, Shri Hem Barua, a Member, sought to raise a question of privilege on the ground that on the 7th April the Prime Minister informed the House that the Soviet Union had sent somebody to Rawalpindi to apprise the Pakistani authorities of the violation of the Tashkent Declaration by Pakistan but she said on the 18th April that no emissary had actually gone.

The member complained that the Prime Minister had, by her earlier statement, misled the House and thereby committed a breach of privilege.

2. The Prime Minister (Shrimati Indira Gandhi) explained *inter alia* as follows:—

"Soon after the Tashkent Declaration—I do not like the word 'violation'—anyhow things have happened on the Pakistani side which we have felt have not been fully in the spirit of the Tashkent Declaration. Now we have been bringing these things to the attention of the Soviet Government throughout and they have been taking up these matters—at least they have so told us—with the Pakistani authorities.....

It was in this connection, it was in this context, that the Soviet Prime Minister said, we do take this up and we will continue to take it up. In regard to the question of sending a person, he said that some one would be sent. It was not made clear, as I said earlier, as to who it would be, whether it would be

a special emissary or whether it would be just an Ambassador—the Ambassador to Pakistan was at that time in Moscow.....

It was about what they had done in the past, that they had been taking up these issues with the Pakistan Government; about what they would do, If I spoke, it was a future action, and I said that somebody would be sent; whether that person was an Ambassador or who else, of course. I did not clarify. So, because of that, both these things come up, you could say. That tense perhaps created that confusion. There were two separate things in my mind, at least it was that way, and I can assure the House that I did not wish to mislead it in any way."

3. Disallowing the question of privilege, the Speaker (S. Hukam Singh) observed as follows:—

"I agree with Shri Mukerjee that when any Minister, including the Prime Minister, makes a statement and comes to know that there has been some inaccuracy, then of his or her own accord the Minister should come up and correct himself or herself.....

If there is any discrepancy or a statement is not correct, there is no question of any privilege motion unless it is proved that a wrong statement has been made deliberately, knowing the true position. It is wrong to presume that she knew the true position and deliberately made a wrong statement. We cannot make that presumption..... After listening to all, I feel that the Prime Minister did not try to mislead the House deliberately and, therefore, there is no question of privilege".

229

LOK SABHA

(1966)

Point of privilege

Alleged misleading of the House by a Minister regarding alleged opinion given by the Attorney-General to the Prime Minister.

Facts of the case and ruling by the Speaker

On the 19th August, 1966, Shri Homi F. Daji, a member, sought to raise a question of privilege against Shri Satya Narayan Sinha, the Leader of the House on the ground that when on the 16th August, 1966 some members had raised the question of press reports regarding the alleged opinion given by the Attorney-General to the Prime Minister on certain actions of the Minister of Food & Agriculture,

Shri C. Subramaniam), Shri Satya Narayan Sinha had admitted that a leakage had taken place and thereby confirmed that the Attorney-General had sent an opinion to the Prime Minister giving a clean chit to Shri Subramaniam, despite the findings of the P.A.C., but later on the Attorney-General, in a letter published in the *Indian Express*, dated the 17th August, 1966, had contradicted this by stating that 'no reference was made to me to assess the propriety or impropriety of Mr. Subramaniam's actions'. The member contended that Shri Satya Narayan Sinha deliberately gave a false impression that the news appearing in the Press was correct and thus had misled the House.

2. Shri Satya Narayan Sinha explained that what he had said in the House on the 16th August was that the story which had appeared in the Press was not given by the Government Shri Sinha maintained that the Prime Minister did seek the Attorney-General's advice on an informal and confidential basis but added that the reference to the Attorney-General was not to obtain any kind clearance of the Minister concerned but to enable the Prime Minister to give further consideration to the matter. Denying the charge of misleading the House, Shri Sinha stated that according to the *Indian Express* of August 17, the Attorney-General had stated the same point, namely, that no reference was made to him to assess the propriety or impropriety of Shri Subramaniam's actions, and that no question could, therefore, arise of his clearing him or not clearing him. The Attorney-General had not said that no reference was made to him.

3. Disallowing the question of privilege, the Speaker (Sardar Hukam Singh) observed that in view of the explanation by Shri Sinha, he did not find any inconsistency or lie in the statement and there was therefore no question of privilege.

230

LOK SABHA

(1966)

Point of privilege

Alleged incorrect statement made by a Minister in the House regarding figures of area of India.

Facts of the case and ruling by the Speaker

On the 22nd August, 1966, Dr. Ram Manohar Lohia, a member, sought to raise a question of privilege against Shri M.C. Chagla, the Minister of Education, on the ground that he had concealed the facts and misled the House in his statement

about discrepancy in area of India in the information given to U.N.O. in 1961 and the figures about the area given by the Prime Minister in reply to a question in the House on the 16th May, 1965.

2. Shri Chagla denied that there was any discrepancy about the area figures in the information supplied to U.N.O. in 1961 and the statement made by the Prime Minister. Shri Chagla explained that the figures supplied to the United Nations were for a specific purpose. i.e., for demographic purposes, and as all the Census figures were not available then, the figures of population of those areas as were then available were supplied to U.N.O. in 1961 and a suitable footnote in the publication explained this fact. The Prime Ministers statement included also those areas the information about which was received subsequently from the Census authorities.

3. Disallowing the question of privilege, the Speaker (Sardar Hukam Singh) observed *inter alia* as follows:—

If a Minister or any Member makes a statement himself knowing it to be false then alone the question of breach of privilege arises. Otherwise, mistakes might creep in, some errors might be made, even some lapses might be committed, but they do not constitute in any case a breach of privilege. I have already ruled this and I repeat it now. There is no question of breach of privilege in this case and I rule it out."

231

LOK SABHA

(1966)

Point of privilege

Alleged incorrect statement made by a Minister in the House.

Facts of the case and ruling by the Speaker

On the 24th August, 1966, Shri Madhu Limaye, member, sought to raise a question of privilege against Shri G.L. Nanda, Minister of Home Affairs, on the ground that on the 11th August, 1966, Shri Nanda in his statement regarding a news-item published in the *Statesman*, dated the 10th August, 1966, about the alleged activities of Left Communist Party of India, had denied that the source of that information, as alleged in news report, was the Ministry of Home Affairs, but the newspapers, after the denial by the Minister, maintained its position

that the source of information was Ministry of Home Affairs. The member contended that Shri Nanda was aware of the position when he made that statement in the House and thereby made an untruthful statement.

2. Shri Nanda stated that what he had said earlier was correct to the best of his knowledge. Shri Nanda added that he had made his earlier statement after inquiring from every body concerned in the Ministry, including junior Ministers.

3. Disallowing the question of privilege, the Speaker (Sardar Hukam Singh) observed *inter alia* as follows:—

"I have only to confine myself to this question alone whether a breach of privilege has been committed and whether I should give my consent to it. I have made it clear and I repeat that it was to be proved that not only the information leaked out from the Ministry or from any of the Ministers but that at the time of making the statement the Home Minister knew that this information had passed from the Home Ministry and then having that knowledge with that knowledge, he made the statement different from it. That has not been proved and, therefore, I cannot give my consent."

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LOK SABHA

(1966)

Point of privilege

Alleged incorrect statements made by a member in the House.

Facts of the case and ruling by the Speaker

On the 3rd September, 1966, Shrimati Renu Chakravartty and Shri Madhu Limaye, members, sought to raise a question of privilege against Shri Atulya Ghosh, another members, for making certain alleged incorrect statements in the House on the 18th August, 1966 during his personal explanation with regard to the allegations made in the previous day's half-an-hour discussion on Pakistani spies concerning the activities of two alleged Pakistani spies, namely, Shri Sunil Das, an employee of the All-India Congress Committee and Shri Mohit Choudhuri. It was alleged that those persons were known to Shri Atulya Ghosh and he had tried to put pressure to hush up the case against them.

Shri Atulya Ghosh in his personal explanation on the 18th August, 1966 had stated *inter alia* as follows:—

"Yesterday my name was freely mentioned in relation to a case concerning Shri Sunil Das, an employee of the All-India Congress Committee. He is one of the 105 employees there and I am an office bearer of All-India Congress Committee, and so it is natural that I knew him and he used to come to my house....I want to state categorically that the allegation that I have tried to exert influence to hush up the case is absolutely wrong. I never discussed these matters with any of the ministers either in the Centre or in the state or any of the officers. I also want to say that I never knew this Mohit Choudhuri and I have never seen him in my life....About Sunil Das, he belongs to the A.I.C.C.....He was an employee of the A.I.C.C. and I am an office-bearer and he used to come to me as several other office bearers, officers and members of the staff came to me..... When Sunil's house was searched, as the staff of A.I.C.C. he came and reported to me and I told him to take the help of a lawyer. The law of the land is to prevail. I again categorically say that this is nothing else but that some friends have tried to malign me personally and the Congress organisation collectively.....I categorically state that I have no association with these people and I completely deny that I ever tried to put any pressure to hush up the case."

While raising the question of privilege against Shri Atulya Ghosh the members made the following five points.

First, that the statement of Shri Atulya Ghosh that he did not know Shri Mohit Choudhuri and had never seen him in his life was false. Secondly, Shri Atulya Ghosh, by stating that Shri Sunil Das was only one among the 105 employees, had given the impression that Shri Sunil Das was an ordinary man and not an important member, that there was a proposal to appoint him as office secretary and therefore, what was alleged, was not true. Thirdly, the denial of Shri Atulya Ghosh that he exerted any influence in transfer of the case was false. Fourthly, in his earlier statement Shri Atulya Ghosh had said that when Sunil Das's house was searched, Shri Sunil Das came and reported to him that his house was searched but later on Shri Ghosh corrected his statement that when Sunil Das was

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interrogated by the Police in his house, he came and reported to him (Shri Ghosh) that in his house he was interrogated. Fifthly, that it was reported in the newspapers that during the search jewellery, gold and ornaments were found but Shri Atulya Ghosh asked the Police not to seize that.

The Speaker (Sardar Hukam Singh) reserved his ruling.

3. On the 5th September, 1966, the Speaker, while disallowing the question of privilege, observed *inter alia* as follows:—

“All those points have no substance either. The only point is whether the hon. member uttered a deliberate lie before this House or misled the House and whether that also is deliberate. The point is in regard to the two statements. One is that he never knew Mr. Mohit Choudhuri; the second is that Shri Sunil Das came to him and he advise him to consult the lawyers and that the law shall have its course. These are the only two statements. In the first statement he said that Sunil Das came after the search had been made though he says that he realises the mistake and that he tried to correct it. But then, the only relevant portion is whether Shri Sunil Das came to him and he only said that he might consult the lawyer or did anything to just help him or to get him out of the clutches of the police. That is the only thing that is there. No proof has been brought before me.....I have been told that I should get the confessional statement of Mr. Mohit Choudhuri before the police. Be it before the police or before the court it does not matter. The veracity of a member's statement is not to be tested by the statement of an accused person, be it before the police or before the magistrate. I will have to rely on the statement of the member first. Only this that the accused might have said something—which I do not know—before the police bringing in others also is not enough here, for the breach of privilege, to substantiate that the member has said something wrong deliberately. Therefore, on both these things I have no material before me to hold that Mr. Atulya Ghosh has told a deliberate lie or misled the House. Therefore, I close it ~~there~~”.

Point of privilege

Wrong briefing of a Minister by an official about a statement to be made in the House.

Facts of the case and ruling by the Deputy Speaker

On the 7th September, 1966, Shri H.N. Mukerjee and several other members sought to raise a question of privilege against the Chief Minister/Home Minister/certain Government officials of West Bengal on the ground that on the 6th September, 1966, while correcting an error in his statement of 17th August, 1966, Shri Jaisukh Lal Hathi, Minister of State in the Ministry of Home Affairs, had stated that the error occurred not because he deliberately wanted to mislead the House, but because he was so briefed by a Senior Police Officer, specially called to brief him from West Bengal. The members stated that although Shri Hathi was not guilty of deliberately misleading the House, it was clear that the concerned Police official briefed the Minister with misleading and erroneous information. The members contended that as the statement was to be made in the House the officer ought to have taken care to brief the Minister with correct facts and therefore the Chief Minister/Home Minister/Home Secretary of the West Bengal Government, who were responsible for sending and briefing the official concerned, and the official who briefed Shri Hathi were guilty of gross contempt of the House for misleading it and seeking to give false information to the House.

2. Disallowing the question of privilege, the Deputy Speaker (Shri S.V. Krishnamoorthy Rao) ruled *inter alia*:—

“I have heard the hon. members who have tabled breach of privilege motions. All these arise out of the statement made by Mr. Hathi. He had stated clearly that an officer of the West Bengal Government gave that information. The officer of the Government is responsible only to the Minister. It is the Minister who is responsible to this House. The Minister has made a statement that he was misled by the officer and he expressed regret. So far as that matter is

concerned, that is over.

Now as to whether this House can go into the question of breach of privilege committed by an officer who gave the information to the Minister, I think, it is purely an administrative matter. He is an officer of the West Bengal Government. Yesterday, both the Prime Minister and the Home Minister stated that an inquiry is being made and that the guilty would be brought to book and that they are not there to shield anybody. It is a purely administrative matter and there is no question of breach of privilege. So, all these breach of privilege motions are ruled out."

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LOK SABHA

(1967)

Point of privilege

Alleged misleading and untruthful statements by Ministers.

Facts of the case and action taken by the House

On the 5th April, 1967, the Speaker informed the House that he had received notice of a question of privilege from Dr. Ram Manohar Lohia and Shri Madhu Limaye, members, in which they had alleged that in the light of a letter dated the 23rd March, 1967, which Dr. Lohia had received from Mrs. Svetlana, it appeared that the Ministers of External Affairs and Commerce and the Prime Minister had misled the House by making misleading and untruthful statements in the House.

2. The Speaker (Dr. N. Sanjiva Reddy) gave his consent to the raising of the matter and permitted Dr. Lohia to ask for leave of the House which he did. As not less than 25 members rose in favour of the leave being granted Dr. Lohia moved the following motion:

"It is the sense of the House that, *prima facie*, there is a discrepancy between the repeated and categorical assertions of the Minister of External Affairs, on his own behalf and that of the Commerce Minister and the Government headed by the Prime Minister and the letters from Mrs. Svetlana to Dr. Lohia; and the House, therefore, resolves to refer the matter to the Privileges Committee."

Dr. Lohia stated that the Minister of External Affairs (Shri M.C. Chagla) had made the following statements; on the 21st March, 1967:

"It is absolutely incorrect to say that this lady made any request to the External Affairs Ministry, to any Minister or to the Prime Minister to stay on in this country. Leave aside a pathetic request but even an ordinary request was not made...."

and on the 31st March 1967:

"I have the authority to state to this House categorically that at no time, either orally or in writing did she make a request to him (Shri Dinesh Singh) either in his capacity as Minister of State for External Affairs or in his personal capacity as a relation of hers...."

Then Dr. Lohia quoted the following two paragraphs from the letter dated the 23rd March, 1967 from Mrs. Svetlana which he had received:

"Yes, there was a private talk between me and Dinesh Singh in January, in Kalakankar, about the possibility for me to stay in India the rest of my life. I have asked him whether it will be possible for me to approach the Prime Minister with such a request. Dinesh knew my feelings to my late husband to Kalakankar, to India. It was no surprise for him that I wished to stay in India. But he told me that he thinks it would be impossible to settle because of the strongest opposition from the Soviet Government, which would inevitably arise...."

On the end of January, before Dinesh Singh left Kalakankar for Delhi, he talked with me again, to make quite clear to me, that Indian Government, the Prime Minister, and he himself would not be able anyhow to help me, if I decide not to return to Moscow and stay in India. He said that I should try to find some ways myself to settle the problems with the Soviet Government and if I would succeed in that then, certainly I can expect the help from the Indian side also."

Dr. Lohia pointed out that the above two versions were quite contradictory and *prima facie* the Ministers had misled the House. This, he felt, constituted a breach of privilege and requested that the matter be referred to the Committee of Privileges for investigation and report as to which of the two versions was true.

3. The Minister of Parliamentary Affairs (Dr. Ram Subhag Singh) then moved the following motion:

"This House is of opinion that the Minister of External Affairs, Minister of Commerce and the Prime Minister have not committed any breach of privilege of the House with regard to the complaint of privilege brought before the House by Dr. Ram Manohar Lohia today."

4. Some members raised a point of order that the motion of Dr. Ram Subhag Singh was out of order under rule 344 as it was in the nature of an amendment to the original motion which had merely the effect of a negative vote.

5. The Speaker observed as follows:—

"I have heard all the points of view, both for and against this point of order. I am of opinion that rule 226 is a self contained rule, so far as the motions relating to the questions of privilege are concerned. Rule 226 reads as follows:

'If leave under rule 225 is granted, the House may consider the question and come to decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member.'

This rule envisages that either one of the two motions or both the motions can be made under this rule. The original motion of Dr. Ram Manohar Lohia states that a *prima facie* case of breach of privilege has been made out and the matter should be referred to the Committee of Privileges for investigation. If this motion is voted down, it only means that the matter is not referred to the Committee of Privileges, and the substantive part of the question of privilege namely whether a breach of privilege or contempt of the House has been committed remains, and the House has to give a decision on the merits of the case.

Therefore, Dr. Ram Subhag Singh is within his rights to invite the House to come to a decision whether any breach of privilege or contempt of the House has been committed.

I rule that both the motions are in order and they should be put to the vote of the House one after the other. First, Dr. Ram Manohar Lohia's motion will be put to the vote of the House, and if it is not carried, then Dr. Ram Subhag Singh's motion will be put to the vote of the House."

Action taken by the House

6. After a lengthy debate, in which the Minister of External Affairs (Shri M.C. Chagla) and the Minister of Commerce (Shri Dinesh Singh) explained the facts of the matter, the motion moved by Dr. Lohia was put to vote first and negatived by 236 to 150 votes. The motion moved by Dr. Ram Subhag Singh was then put to vote and was adopted by the House.

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LOK SABHA
(1967)

Point of privilege

Alleged misleading statement by a Minister in the House.

Facts of the case and action taken by the House

On the 1st August, 1967 Shri Atal Behari Vajpayee, a member, complained that in the light of the following remarks contained in a note written by a Deputy Secretary of the Madhya Pradesh Government in a file, the Minister of Home Affairs (Shri Y. B. Chavan), by his statements in the House on the 28th and 31st July, 1967 denying any information or issue of any directions by the Central Government, about the printing of Madhya Pradesh Budget for presentation to Lok Sabha, had misled the House:

"It may be stated here that Shri Shirali, Joint Secretary, Ministry of Finance, Government of India, sounded the Finance Secretary on phone on the evening of 22nd July to start preliminaries for this contingency by way of abundant precaution."

This, he felt, constituted a breach of privilege of the House.

2. The Speaker (Dr. N. Sanjiva Reddy) gave his consent to the raising of the matter and permitted Shri Vajpayee to ask for leave of the House, which he did. As more than 25 members rose in favour of the leave being granted, Shri Vajpayee moved the following motion:

"This House resolves that the alleged breach of privilege committed by the Minister of Home Affairs (Shri Y. B. Chavan), by keeping the House in the dark by his statements made on the 28th and 31st July, 1967 about the printing of Madhya Pradesh budget for presentation to Lok Sabha be referred to the Committee of Privileges for examination with instructions to present its report by the first day of the next session."

3. The Minister of Home Affairs (Shri Y. B. Chavan) readily agreed for reference of the matter to the Committee of Privileges, as he felt that he had stated the facts and nothing was concealed from the House.

4. Thereafter, Shri Madhu Limaye, another member, moved an amendment to the above motion as follows:—

“That the responsibility of the Prime Minister in this matter, as the head of the Cabinet, be also referred to the Committee of Privileges.”

5. Shri Chavan then observed that he had agreed for reference of the matter to the Committee of Privileges thinking that the Opposition were interested in finding out the facts and his responsibility in the matter but in view of the amendment moved by Shri Madhu Limaye, he felt that there were political motivations behind the issue. He would, therefore, oppose both the original motion, moved by Shri Atal Behari Vajpayee, and the amendment, moved by Shri Madhu Limaye.

6. The Speaker ruled the amendment, moved by Shri Madhu Limaye, out of order on the ground that it was in the nature of a substantive motion and could not be moved as an amendment to the original motion.

7. After a lengthy debate, Shri Chavan explained the position:

“It is claimed that I made some material discrepancies in my different statements. Naturally, I had said that the words might be different but at least on one point I said I was not correct when I gave the information to the House— about the printing of the budget in Delhi. Naturally, in these matters I had no personal information about it. Therefore, I did consult the Deputy Prime Minister who, on his own impression, gave me information and later on he corrected that. But by that time, the discussion was over. I gave that information yesterday.

The information was on two counts, whether we had information about the budget being printed in Madhya Pradesh. That was one thing, I said I had no information, I will have to get that information from Madhya Pradesh. You asked me to get the information from the Madhya Pradesh Government. I have not changed that. There is no discrepancy on that point even now, because that day I did not have any information about the printing of the budget in Madhya Pradesh.

The second point on which I made a material statement, which I still say I stand by, was that we did not give any instructions to the Madhya Pradesh Government about the printing of the budget.

* * *

Now, the question of the Joint Secretary talking to somebody there has been brought in. Administration is not all politics. Administration is full of responsibilities. When the Madhya Pradesh Assembly was prorogued, naturally the administration here is concerned, it is the responsibility of the Home Ministry, the responsibility of the Finance Ministry.

It is not merely a question whether one Government remains there, or the other Government comes in, it is a question of how to carry on the administration, because, even apart from the payments to these servants and services, as you know, in a State administration direct expenditure has to be incurred on many important, immediate problems. The patients in the hospitals have to be fed and they have to be given medicines the prisoners in jail have to be fed. These are some of the things on which you have to spend money.

When on the 28th I made a statement here that I had no knowledge about this discussion between the Joint Secretary and the Finance Secretary at the other end, the question was raised by somebody; why is it that the Joint Secretary did not inform the Deputy Prime Minister or me? Because he was very clear he did not give any instructions, there was no occasion for him to give any instructions, because he could not give instructions, because he had no authority to give instructions; unless he gets authority from the Deputy Prime Minister, he cannot give any instructions.

It is said that I have misled the House. What is the meaning of ‘misleading the House’? When I have got some other information which I suppress and I gave something else, then it is ‘misleading’. So, there was no question of misleading the House....

I responded in a spirit of co-operation. But when I found that the people who wanted to receive it were not so sincere, that they wanted to make political game of it, then, it was my right to withdraw it. So, Sir, my claim is that there is no privilege involved in it, and that this privilege motion should be rejected.”

8. The motion moved by Shri Atal Behari Vajpayee, was then put to the vote of the House and negatived by 161 to 116 votes.

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LOK SABHA
(1967)

Point of privilege

Alleged misleading statement by a Minister in the House.

Facts of the case and ruling by the Speaker

On the 20th July, 1967, the Minister of Home Affairs (Shri Y. B. Chavan) had observed, as follows during the debate on the adjournment motion regarding prorogation of the Madhya Pradesh Legislative Assembly:

"....I would like to repeat what I said this morning. When the question was raised about the prorogation of the Assembly, I said 'I have no facts about it. Unless I get the facts from the Governor, how can I say anything?' Till I talked to the Governor this evening, after I promised to this House to talk to him, I had not a word with the Governor in the last many weeks perhaps. There was no question of giving any direction to the Governor....."

2. On the 25th July, 1967, Sarvashri Shri Chand Goel and Madhu Limaye, members sought to raise a question of privilege on the ground that certain newspapers of the 21st July, 1967, had published a statement of the Governor of Madhya Pradesh (Shri K.C. Reddy) which was as follows:

"Asked whether he (the Governor) had consulted the Centre before proroguing the House, he said he had done so 'to the extent the Constitution permits'."

The members contended that the news report clearly implied that the Governor had consulted the Centre before proroguing the House and thus the Minister of Home Affairs, by his aforesaid statement, had misled the House and thereby committed a breach of privilege of the House.

3. Shri Y. B. Chavan explained the position thus:

"The points raised by the hon. member, Shri Goel relate to what I said in the House the other day that I had not talked to the Governor before I asked him after I was asked by the Lok Sabha to find out the reasons and the facts of the prorogation of the Assembly. I do stand by what I had uttered in this House that I did not have any discussion, any talk, with the Governor before

that. So there was no question of my advising him or there being any discussion between him and me.

As regard what the Governor is reported to have said to the pressmen, naturally I wanted to find out when the privilege motion was raised here. The letter received from his Secretary—I am prepared to lay it on the Table—to one of the Joint Secretaries in the Home Ministry reads thus:

"I have placed the papers before the Governor and he desires me to say that the reports quoted in the motion that have appeared in two Delhi papers are incorrect. Some representatives of the press met the Governor on 20th July. He handed to them a prepared statement, a copy of which is enclosed.

One of the representatives asked him whether in arriving at his decision to prorogue the Assembly, he had consulted the Centre. The Governor replied: 'I consult the Centre to the extent the Constitution permits.' What he meant to say was that it was only where the Constitution requires it that he consults the Centre. In this particular case, such a consultation was neither required nor permitted, and no advice was given by the Centre. He took the decision on the advice of the Chief Minister....."

These are the facts.....There is no discrepancy between what the Governor has to say and what I said. So I plead that there is no *prima facie* case of privilege."

4. The Speaker (Dr. N. Sanjiva Reddy), disallowing the question of privilege, observed: as follows:

"The Home Minister also agrees and says that he stands by what he has stated. In view of the fact that the Governor also corroborates this that he has not consulted the Home Minister, I do not think there is any case made out. I, therefore, withhold my consent to this motion."

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LOK SABHA
(1968)

Point of privilege

Alleged misleading statement made by a Minister in the House.

Facts of the case and action taken by the House

On the 2nd April, 1968, the Minister of Industrial Development and Company Affairs (Shri Fakhruddin

Ali Ahmed), in reply to a Short Notice Question,¹ stated as follows:

"The facts regarding the question are that it is understood that Professor M.S. Thacker, Chairman of the Industrial Licensing Policy Inquiry Committee, was invited informally to a meeting of the Board of Directors of the Bank of India on the 28th March, 1968, to let them know his decision on the offer made to him of Directorship on the Board of the Bank. After telling them that he required three to four weeks to consider his decision, Professor Thacker came away from the meeting. Subsequently, the Government have been informed that he has declined the offer. In the circumstances, it is not proposed by Government to take any further action in the matter."

2. On the 24th April, 1968 the Minister of Industrial Development and Company Affairs, made a statement on a Calling Attention Notice regarding the resignation of Professor Thacker from the Chairmanship of the Industrial Licensing Policy Inquiry Committee, which *inter alia* was as follows:

"As the House will recall, I answered a Short Notice Question by Chintamani Panigrahi, a member, on the 2nd April, 1968... Basing my reply to the question entirely on the information given to me by Prof. Thacker himself on 29 March, 1968 and the Secretary to the Industrial Licensing Policy Inquiry Committee on 30 March, 1968, I had then answered that Prof. Thacker was invited informally to a meeting of the Board of Directors of the Bank of India on the 28th March, 1968 to let them know his decision on the offer made to him of the Directorship on the Board of Bank. I had added, also on Prof. Thacker's information, that after telling the Board that he required three to four weeks to consider his decision, Prof. Thacker had come away from the meeting. The next day i.e., the 30th March, 1968 the Secretary of the Ministry of Industrial Development was informed by Shri K.L. Rathee, Secretary to the Inquiry Committee, on

behalf of Prof. Thacker, both verbally and in writing that Prof. Thacker had decided not to accept the Bank's offer. The terms in which Shri Rathee communicated this were as follows:

'Before leaving for New York this morning Professor Thacker asked me to inform you that he has decided not to accept the Directorship of the Bank of India which was offered to him in a meeting held at Bombay on the 28th March, 1968.'

I shall like to clear another misapprehension which seems to exist, namely, that Prof. Thacker's meeting with Board of Directors of the Bank was with the knowledge of Government. It is, of course, correct that Government knew that Prof. Thacker was going to Bombay on the 28th March, 1968 but Government was at no time aware that he was proposing to attend the meeting of the Board of Directors of the Bank of India. It is only on his return from Bombay that he informed me on the 29th March, 1968 that he had attended the meeting. I then expressed my surprise and unhappiness over his doing so, but he explained that he had gone there only to ask for time and that he left the meeting soon after communicating his views in the matter.

I trust that the above statement of facts will show conclusively that all that I had stated in reply to the Short Notice Question on the 2nd April, 1968 was based on facts and that there was no attempt whatsoever at concealment of any kind or to mislead the House.....

I would like to make it clear that Prof. Thacker seems to have had some miscomprehension of my views as expressed in my earlier discussion with him on the 20th March, 1968. I am at a loss to understand how this happened, but even if there was any such misconception, I am sure it could not have lasted for long. So far as I am concerned, from the very beginning I had made it clear to Prof. Thacker that the Chairmanship of the Committee and the Directorship of the Bank are not consistent with each other having regard to the properties involved in the matter. I had stressed that it was most important that

¹S.N.Q. No. 15 (L.S. Deb., dt. 2-4-1968) read as follows:

"Will the Minister of Industrial Development and Company Affairs be pleased to state:

- (a) whether Prof. M.S. Thacker, the Chairman of the Committee appointed to investigate into the question of issue of industrial licences to private monopoly houses in the country has accepted the Directorship of the Bank of India and is attending its meetings; and
- (b) if so, Government's reaction thereto?"

the stature and the status of the Committee should not be allowed to suffer in any manner. These views were reiterated by me on the 27th March, 1968 when Prof. Thacker met me before he left for Bombay and again on the 29th March, 1968 on the eve of his departure for New York. If it had been a fact that I had agreed to Prof. Thacker continuing as Chairman of the Committee even after becoming a Director of the Bank, surely there would have been some communication by the Government to him or to the Committee to that effect. In fact there was no such communication from Government. On the contrary, the fact that Prof. Thacker declined the offer of the Bank on the 30th March, 1968 is ample testimony, if indeed such testimony is needed, that he made up his mind following his meetings with me on the 27th and 29th March, 1968 when I had reiterated in no uncertain terms what my reactions were to this continuing as Chairman if he accepted the Directorship of the Bank.....

It has also been said that Prof. Thacker took the prior permission of the Government to consider the offer to the Bank of India. So far as I am concerned, the question of prior permission did not actually arise, as it seems that the offer had been under his consideration for some time for personal reasons. It is not known to Government even now as to when Prof. Thacker received the offer of the Bank of India in the first instance and how long he had been in touch with the Bank on the subject. The fact of the offer was brought to Government's notice for the first time only about the middle of March last. The statement, therefore, that the offer was considered with the prior permission of the Government is untenable. I would like to add here that while acceptance or non-acceptance of the offer was a matter wholly for Prof. Thacker to decide, the Government was concerned only with his continuance as the Chairman of the Inquiry Committee, if he were to accept such an offer.

In the light of the above, I would repeat to the hon. House that I stand by all that I have said in answer to the Short Notice Question put to me on the 2nd April, 1968. In the interest of the dignity, impartiality and rectitude with which a Committee of this stature should work, I have already intimated to Prof. Thacker that Government have accepted his resignation....."

3. On the 26th April, 1968 Shri Rabi Ray, a member, sought to raise a question of privilege on the ground that the Minister of Industrial Development and Company Affairs by his statement made on the 2nd April, 1968 had misled the House, which constituted a breach of privilege.

4. The Speaker (Dr. N. Sanjiva Reddy) permitted Shri Rabi Ray to ask for leave of the House, which he did. As more than 25 members rose in favour, the leave was granted.

5. Shri Rabi Ray then moved the following motion:

"Whereas in the opinion of this House, it clearly appears necessary to inquire whether a breach of privilege of the House has been committed or not by the Minister of Industrial Development and Company Affairs by the reply given by him on the 2nd April, 1968 this House, therefore, resolves to refer this matter to the Committee of Privileges with instructions to report on the first day of the next session."

6. The Minister of Law (Shri P. Govinda Menon), participating in the discussion, observed *inter alia* as follows:

".....I am amazed to find that nobody who supported the motion referred to any passage in the statement made by the Minister on the 2nd April, 1968 which was either false.... or which was calculated to mislead the House.

....I have not been able to understand from any of the Speeches made here which of the three statements of this answer was deliberately false and calculated to mislead the House. Is it false to say that he went to attend informally a meeting of the Board of Directors of the Bank? It is admitted to be correct. Is it not correct that he said that he would answer some time later? Is it not correct that before he went to New York, he informed through Mr. Rathee, the Minister that he does not propose to accept the Directorship of the Bank of India?

These are the three statements made. We are told that these statements are false and are calculated to mislead the House and therefore there should be an inquiry in the Committee of Privileges. Is the committee of Privileges a body to inquire into matters which are not relevant to the issues raised? Is the privilege of this House, which is a very important privilege, a very important right to the members of the House and to the House to be so lightly treated that anything could be sent to the

Committee of Privileges? If some of us would vote against it, it is because we want to see that the privilege of having a privilege for the members of the House should be preserved as a sanctified privilege and it should not be tossed about or attempted to be tossed about like this....."

7. Shri Kanwar Lal Gupta, another member, quoted from the letter stated to have been written by Shri Rathee, Secretary of the Industrial Licensing Committee, to the Secretary of the Ministry, indicating that the Minister had agreed to the personal request of Prof. Thacker. He also moved the following amendment to the motion moved by Shri Rabi Ray:

"That in the motion after '2nd' insert 'and 24th'."

8. After a lengthy debate, the Minister of Industrial Development and Company Affairs reiterated his earlier statements and said that he had neither made any false statement nor misled the House in any way.

9. The amendment moved by Shri Kanwar Lal Gupta was put to vote and negatived.

10. Thereafter, the motion moved by Shri Rabi Ray was put to vote negatived by 145 to 78 votes.

238

LOK SABHA
(1968)

Point of privilege

Alleged misleading statement by the Deputy Prime Minister in the House.

Facts of the case and ruling by the Speaker

On the 24th July, 1968, Shri Madhu Limaye, a member sought to raise a question of privilege against the Deputy Prime Minister (Shri Morarji Desai) on the ground that the following statement made by the latter on the 30th April, 1968 during the debate on the Finance Bill was false and misleading:

"....my son has given up business from the year 1964; not now. After I had gone out of the Ministry he wrote to me that he wanted to serve me and serve the public and 'now that I was out of the Ministry, nobody will be able to say anything'. Therefore, he went out of business and joined me as my private secretary....."

I have made enquiries through the police against my son whenever some papers have come like that. I have not let it alone, and I am happy that my son

was always found miles away from any kind of these things. It was only some perverse people who were trying to circulate these rumours against him."

Shri Madhu Limaye added that he was in possession of photostat copies of an agreement between Dodsai Private Limited and Shri Kantilal Desai (son of Shri Morarji Desai) whereunder the company was to pay to him Rs. 2,050 per month for a period of three years with effect from the 1st April, 1965. The member contended that this showed that Shri Kantilal Desai had business connections even much after 1964 when he was stated to have given up all business. Thus Shri Morarji Desai had misled the House and thereby committed a breach of privilege and contempt of the House.

2. Shri Morarji Desai explained the position as follows:

"Messrs Dodsai Private Limited—an A.E.G. not an Indian concern at that time—engaged my son as a Commission Agent from December, 1956.

In December, 1960 the concern employed him as the Director Sales on a salary plus commission as is the usual basis for salaried employees, the total of which from the second year of service was a little over Rs. 4,000 p.m. the salary part being Rs. 1,650 during the first 12 months Rs. 2,050 after one year. The rest was the result of the commission which he got in the year.

Both these agreements were signed by the European Manager terminable on six months notice. The agreement of December, 1960 remained in force until 31st March, 1965 inclusive of the period of notice. He however ceased to do any work after June, 1964 for this company.

The last agreement providing for terminal benefits with a monthly remuneration of Rs. 2,050 but no commission was for 3 years with effect from 1st April, 1965.

As the photostat copy would show, this agreement imposes no business obligation except that nothing regarding the transactions done during the period when my son was with the concern either as an agent or in service would be disclosed.

This is an obvious precaution and cannot be deemed to be business connection. The cessation of the commission fees which were substantial would establish that no business was expected during the period. The payment of terminal benefit is as stated in the Agreement for valuable services rendered. This is a business evaluation entirely within the judgement of the concern and the hon'ble House would not expect me to go into the details of this and similar other transactions in the business world.

The last agreement which has been used to impugn my statement relates to a period when I was out of office. It is nothing but fanciful to state that my general standing in public life would have brought this about. So many of us including my hon'ble friend, Shri Limaye, have standing and influence but I do hope that in equity they would be saved the imputation should some good things happen to their families.

I would not like to go into various wild and irresponsible thoughts built around this matter. I had drawn distinction between the role of my son as my Private Secretary when I was out of office, and as my personal Private Secretary when he accompanied me on one or two official tours. No part of the cost was met by Government nor had my son access to official records. It is equally absurd on the one hand to connect the timing of the raid by the Enforcement Directorate with the cessation of the agreement and on the other to insinuate that the enquiry is being interfered with. The enquiry is proceeding according to law and regular progress reports are being watched in the Directorate of Enforcement and the Ministry."

3. The Speaker (Dr. N. Sanjiva Reddy), disallowing the question of privilege, observed that there was no difference in the facts stated by both sides and no question of privilege was involved in the matter.

239
LOK SABHA
(1968)

Point of privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Deputy Speaker

On the 25th March, 1968, Shri Rabi Ray, a member, sought to raise a question of privilege in the House against the Minister of State in the Ministry of Home Affairs (Shri V.C. Shukla) on the ground that Shri V.C. Shukla had deliberately misled the House on the 22nd March, 1968, by repeatedly and categorically stating that the Consultative Committee to be set up under clause 3 of the West Bengal State Legislature (Delegation of Powers) Bill would not involve any expenditure from the Consolidated Fund of India and that, therefore, no Financial Memorandum was required to be circulated with the Bill in terms of Rule 69 of the Rules of Procedure and Conduct of Business in Lok Sabha. Shri Rabi Ray pointed out that subsequently, however, Shri V.C. Shukla had circulated the required Financial Memorandum stating that approximately a sum of Rupees 96 thousand would be spent from the Consolidated Fund of India. Shri Rabi Ray contended that there was a clear case of breach of the privileges of the House and the matter should be referred to the Committee of Privileges.

2. Shri V.C. Shukla explained:

"....when I said that there would be no expenditure, it was my view and it was the Government's view that there was no expenditure involved from the Consolidated Fund of India in terms of Art. 117 (3) of the Constitution. Sir, this was the position that we adopted and this was the position that was accepted in 1960. This matter was raised in 1960. It was extensively examined by the Rajya Sabha Secretariat, by the Lok Sabha Secretariat and by the Ministry of Law and it was held that the expenditure for such committees has to come from the Lok Sabha Secretariat expenses and since then we have brought forward many such Bills and no financial memorandum was included on the presumption which was based on the decision taken in 1960.

There was no dispute about the expenditure. We were only debating whether it would be so in terms of Art. 117(3) of the Constitution or not. Since we had this information of the decision taken in 1960, I

had stated so before the House. Afterwards you were pleased to rule that a financial memorandum should be circulated. So, in accordance with your direction we put it. That is all about this."

The Deputy Speaker (Shri R.K. Khadilkar), who was in the Chair, thereupon, observed as follows:—

"...it would have been far better to have the matter thoroughly examined before making a statement, because nobody can be certain about past practices. We have to examine it with a view to observing current procedure. That is more important. Even if in the past, there was certain irregularity, it is not that on that basis quoting that precedent, we could go ahead.

In future, this should be borne in mind. I personally feel everybody would agree that there was no intention to mislead but the manner in which it was said and the approach to the problem ought to have been a little different. It should not be stretched too far.

This matter is now closed."

240

LOK SABHA

(1969)

Point of privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Speaker

On the 8th December, 1969, in reply to a Calling Attention Notice regarding "Reported disappearance of important military designs from the Central Scientific Instruments Organisation, Chandigarh," the Minister of Education (Prof. V.K.R.V. Rao) had stated *inter-alia*, that "the fact that certain military documents were missing from the office of the Central Scientific Instruments Organisation, Chandigarh, had not been brought to my notice by the office of Council of Scientific and Industrial Research and the first information I got was from the "Statesman", of 5th December, 1969. Shri M.L. Sondhi, a member, however, contended that the Director, C.S.I.O. Chandigarh (Dr. Gill) had written a letter to Prof. V.K.R.V. Rao on the 5th November, 1969, informing him of the missing documents.

2. Sarvashri N.K. Shivappa and Kanwar Lal Gupta M.Ps, in separate communications dated the 8th and 9th December, 1969, respectively addressed to the Speaker also alleged that a letter dated the 24th November, 1969, about the missing documents in

question was written by the Director, Central Scientific Instruments Organisation, Chandigarh (Dr. P.S. Gill) to Prof. V.K.R.V. Rao and was duly acknowledged by the personal staff of Prof. Rao.

3. On the 15th December, 1969, Sarvashri N.K. Shivappa, M.L. Sondhi and Kanwar Lal Gupta, M.Ps. sought to raise a question of privilege in the House against the Minister of Education on the ground that he had deliberately misled the House on the 8th December, 1969, by repeatedly and categorically stating that the fact that certain military documents were missing from the office of the Central Scientific Instruments Organisation, Chandigarh, had not been brought to his notice by the office of the Council of Scientific & Industrial Research and that the first information he got was from the "Statesman", dated the 5th December, 1969. Explaining the position Prof. V.K.R.V. Rao stated *inter-alia* as follows:—

"Although in the final observations on that day (8th December, 1969), I did refer to 25th November, as the first time I came to know about this matter. I had said in my initial statement, as also in the earlier part of the discussion on that day, that I came to know about this matter, for the first time, on 5th December. This was due to the fact that in my preoccupation with the substance of Dr. Gill's letter of 24th, which was mainly concerned with the police raids on his house and his appeal for protection, the passing mention that the letter had made to the loss of the documents escaped my mind.

This is a letter which was acknowledged by my office in the routine course although the fact that it had been acknowledged was not in my personal knowledge when I spoke in the House on 8th December.

As the House would thus observe, it is not true that I received any communication from Dr. Gill in regard to the missing documents around 5th November. Nor is it true that I received any telegram about that time of the nature alleged by Shri Gupta. In my concluding observations in the House on 8th December I also did refer to 25th November as the first time when I came to know about this matter. However, as I wrote to you, Sir, when you asked me for the facts on the present notices, I have no hesitation in expressing my regret if any erroneous impressions were created about dates by my initial statement or by what I said

during the earlier part of the discussion. There was absolutely no intention on my part to mislead the House and much less to misstate any facts".

4. On the 18th December, 1969, after some further discussion on the matter, the Speaker observed as follows:—

"He (Prof. V.K.R.V. Rao) has already expressed regret I drop the matter. I do not hold the motion in order."

241
LOK SABHA
(1972)

Point of privilege

Misleading the Committee on Public Undertakings by an official witness

For details of the case please see summary No. 134 at pp. 264—265 ante.

242
LOK SABHA
(1973)

Point of privilege

Alleged inaccuracy in the information given by a Minister in the House

Facts of the case and ruling by the Speaker

On the 13th December, 1973, Shri Jyotirmoy Bosu, a member sought to raise a question of privilege against the Minister of State in the Ministry of Finance (Shri K.R. Ganesh) for allegedly giving wrong information to the House during supplementaries on a Starred Question. Shri Jyotirmoy Bosu stated that on the 8th December, 1973, while replying to a supplementary to a Starred Question on the disparity of pay scales and conditions of service of the two classes of Income Tax Officers, the Minister had stated as follows:—

"The hon. member has asked three questions First, he has asked whether the PAC had recommended the abolition of Class II officer' cadre in the Income Tax Department. I am informed that the PAC did recommend this, but the Department later on discussed it with the PAC and the PAC was persuaded to withdraw this position."

Shri Bosu contended that the Public Accounts Committee had not made any such recommendation nor were they persuaded to withdraw any recommendation. The Minister had thus, he alleged,

deliberately misled the House and lowered the dignity of the Committee on Public Accounts in the eyes of the public.

2. The Speaker (Dr. G.S. Dhillon) observed as follows:—

"There is no question of privilege. I want to tell you once and for all that in the case of such matters, when a member is not satisfied and I find something incorrect in the statement, it is not a question of privilege at all—it is referred to Minister under Direction 115.

...the whole discussion has arisen because of the words that 'the Committee were persuaded'. And that is wrong expression used and you are sorry for that; that is all right...there is nothing in this except the use of a wrong expression. There is nothing deliberate and there is nothing wrong, but some wrong expression had been used. Instead of referring to the matter having been discussed and dropped, he said 'persuaded' which perhaps will not be a good instance for the future. That was why I had suggested that persuasion was a wrong expression used....."

3. Shri K.R. Ganesh, thereupon, stated *inter-alia* as follows:—

"I have in my first submission itself mentioned already that the expression 'persuaded to withdraw' was an unhappy and inappropriate expression. If for that your suggestion has been, and it is the feeling of the House also that I should express regret for this inappropriate expression which I had used I have absolutely no hesitation in expressing regret for this inappropriate expression which I had used."

4. The matter was then closed.

243
LOK SABHA
(1974)

Point of privilege

Alleged misleading statement in the House by a Minister

Facts of the case and ruling by the Speaker

On the 18th April, 1974 Shri Jyotirmoy Bosu, a member sought to raise a question of privilege against the Minister of Home Affairs (Shri Uma Shanker Dikshit) for allegedly making a wrong statement in the House on the 17th April, 1974, regarding shooting incidents in Bihar. Shri Bosu

stated that on the 17th April, 1974, while making a statement on Bihar situation in the House, the Minister had stated that no 'shoot at sight orders' were issued in Gaya and that all the three firings there took place under order of the Magistrate on duty on the spot. Shri Bosu contended that according to a news report circulated by the *Press Trust of India* and published in the *Times of India*, dated the 16th April, 1974, the District Magistrate had confirmed to the press that he had given shoot at sight order in Gaya on the 13th April, 1974.

2. The Deputy Speaker (Shri G.G. Swell) who was then in the Chair, reserved his ruling.

3. On the 19th April, 1974, the Deputy Speaker disallowed the question of privilege and ruled as follows:—

"Yesterday, I held over for consideration the notice of a privilege motion by Shri Jyotirmoy Bosu.

I have had the opportunity to go through his letter and also to examine the relevant proceedings in the House on that day and what I found was that there is a dispute with regard to facts. Shri Jyotirmoy Bosu contends that there was an order to shoot at sight and the Home Minister in his statement says that there was no such order and whatever action was taken was on the order of the Magistrate on the spot and not on any order of shoot at sight. At the most, this is a dispute of facts and since the discussion on the Bihar situation will be taken up right now, I shall give Shri Jyotirmoy Bosu an opportunity to speak on it and he may make that submission I have ruled that there is no privilege involved."

4. On the 1st August, 1974, Shri Madhu Limaye a member sought to raise a question of privilege against the Minister of Home Affairs (Shri Uma Shanker Dikshit) for making a wrong statement in the House. Shri Limaye stated that on the 17th April 1974, while making a statement in the House regarding shoot at sight order in Gaya, the Minister of Home Affairs had stated that no such order was issued but according to the Report of the Committee appointed by Shri Jayaprakash Narayan, the authorities did issue shoot at sight orders there. Shri Limaye contended that the statement made by the Minister of Home Affairs on the basis of the information received by him from the State Government was thus not correct and the matter

might be referred to the Committee of Privileges for examination.

5. The Speaker (Dr. G.S. Dhillon) reserved his ruling.

6. On the 5th August, 1974, the Minister Home Affairs (Shri Uma Shanker Dikshit), Made *inter-alia* the following statement:—

"Sir, you would recall that in the course of a statement I had made in the House on the 17th April, in regard to developments in Bihar. I had pointed out that the State Government have intimated that no shoot at sight order was given at Gaya and that all the firings took place under orders of the Magistrates on the spot'.

.....In the course of my statement as well as reply I had made it clear that the information which I had furnished had been obtained from the State Government.

Shri Madhu Limaye had referred to the report of a Committee appointed by Shri Jayaprakash Narayan to enquire into incidents at Gaya. The Committee in its report had referred to what Shri B.K.P. Sinha a former member of the Rajya Sabha had informed the Committee that he heard an announcement that the curfew had been extended and that those found on the road would be shot at. The Committee, however, had also stated that it was not possible for them to check the facts with the administration and, therefore, it was difficult for them to get the exact wording of the written orders, if any, passed in this regard. We have, however, again checked the position with the State Government who have reiterated that what I had informed the House was correct. Sir, when ever the Central Government are required to apprise members of this House of the development relating to public order or any other matter wholly within the competence of the State Government under the Constitution, it has been the practice that we rely on the information furnished by the concerned State Government. The practice in our view is based on a correct appreciation of the constitutional position. The information furnished to the House is based on what the State Government have conveyed to us and in doing so there cannot be any question of misleading the House or committing any contempt of its privileges."

7. The Speaker disallowed the question privilege and ruled as follows:—

“So far as this privilege is concerned I think there is no privilege involved because, normally the information is that of the State Government and they have made it sure that it is checked again.....

Now, the Minister is responsible so far as those matters which are within his cognizance and he has relied on them. I am sorry, there is no privilege involved here.... we have to rely on the statement made by the Minister.

244

LOK SABHA

(1974)

Point of privilege

Alleged non-fulfilment of assurances given and misleading statements made by Ministers in the House and misconduct of a member in connection with the Pondicherry Import Licence case

For details of the case please see summary No 75 at pp. 139—142 ante.

245

LOK SABHA

(1974)

Point of privilege

Alleged misleading statement by the Prime Minister in the House.

Facts of the case and ruling the Speaker

On the 28th November, 1974 Shri Madhu Dandavate a member stated in the House that a circular had been issued by the Prime Minister's Secretariat stating that the Minister should send advance copies of all replies to be given in the House to the Prime Minister.

2. On the 4th December, 1974, the Prime Minister (Shrimati Indira Gandhi), referring to the above matter stated in the House as follows:—

“Sir, I was informed the other day that Shri Madhu Dandavate made a reference to an alleged circular issued by my Secretariat. As soon as I heard about it, I wrote to you that there was no truth in this, No circular has gone from the Prime Minister's Secretariat in my time. Neither verbally nor orally. But earlier on—I am not quite sure of the date—in 1964,

and, perhaps once before, a suggestion was made that Questions pertaining to Pakistan and Kashmir should be shown to the Prime Minister. But this was before my time In my time, no such circular has gone. I do not normally look into Questions unless a Minister wants to ask my advice or feels that I should know.”

3. On the 26th February, 1975, in reply to a Starred Question No. 133, the Prime Minister informed the House that the following circular was issued by the Prime Minister's Secretariat on the 28th October, 1974, to all the Ministries:—

“The undersigned is directed to say that as in the past, the Prime Minister would like to see advance copies of all statements to be made in Parliament by Ministers as also of briefs for answering supplementary questions, if any. The Ministries are, therefore requested to forward four copies of such statements and briefs to this Secretariat as soon as they are finalised. During working hours these copies may kindly be sent to Shri B.N. Tandon, Joint Secretary to the Prime Minister, in Room No. 8, Parliament House and the Prime Minister's House after working hours and on holidays.”

4. On the 27th February, 1975, Shri Atal Bihari Vajpayee, another member, sought to raise a question of privilege against the Prime Minister stating that on the 4th December, 1974, the Prime Minister had made a misleading statement in the House in which she had denied that any such circular had been sent to the Ministers by her Secretariat, whereas, on the 26th February, 1975, in reply to a Starred Question, the Prime Minister had informed the House of the text of a circular on the subject issued by the Prime Minister's Secretariat to all the Ministries on the 28th October, 1974.

5. The Speaker (Dr. G.S. Dhillon) observed that he had not allowed the matter to be raised as a question of privilege.

6. On the 3rd March, 1975 when Shri Madhu Dandavate sought to raise the matter again in the House, the Speaker observed as follows:—

“I had not accepted it as a privilege motion. If the Minister wants to make a statement independent of the motion, I do not mind. The Prime Minister has a prerogative to see and so far as this is concerned, it is clearly mentioned as in the past.....privilege does not arise I do not allow it. The Prime Minister has got the prerogative

to see the statements. She has to coordinate and she is to have general supervision. What is wrong about it? It has been said 'as in the past'. the Prime Minister can explain it..... this is not a privilege at all. I do not treat it as a privilege."

7. Thereupon, the Prime Minister (Shrimati Indira Gandhi) explained the position as follows:—

"The question that was raised in the House was this. This was the quotation of Mr. Madhu Dandavate.....

'It is our information that a circular has gone that henceforth all the replies sent by the Minister must be first sent to the Prime Minister.

It is to this that I gave a reply that no such circular has gone. The circular which was sent, as I have told the hon. Speaker and I think that Mr. Madhu Dandavate is also in the know, was to the effect that when statements are made by Ministers in the House, copies of those plus any notes which they may have for supplementaries on the statements should be sent to the Prime Minister's Secretariat.....The hon. member is quite right in saying that the earlier circular was sent by my Secretariat also because I think it is the Prime Minister's business to know what important matters are going on in the House.....I denied that I had asked for all questions, and replies to be submitted which I have not asked for....When a specific question was asked whether I had asked for advance copies of questions and their replies, I said 'No'.....But I certainly think that matters that come up in connection with call attention motions and so on are important. And there also I said that the final version should be sent to me, so that I know what they are saying in the House so that if necessary and something has to be followed up. I know. I think it is the Prime Minister's business to keep abreast of what is going on in the House."

8. Thereafter, the matter was closed.

246

LOK SABHA

(1974)

Point of privilege

Alleged misleading statements made in the House by a Minister in connection with the Pondicherry Import Licence case.

Facts of the case and ruling by the Speaker

On the 4th, 5th, 11th, and 12th December, 1974, Sarvashri Atal Bihari Vajpayee, Madhu Limaye, Jyotirmoy Bosu and Shyamnandan Mishra Members, sought to raise a question of privilege against the Minister of Railways (Shri Lalit Narain Mishra) for allegedly misleading the House by his certain statements on the 28th August and 9th September, 1974, in connection with the Pondicherry import licence case.

2. On the 9th December, 1974, Shri L. N. Mishra laid on the Table of the House a statement explaining the position.

3. On the 12th December, 1974, the Speaker (Dr. G.S. Dhillon) reserved his ruling.

4. On the 16th December, 1974, the Speaker disallowed the question of privilege and observed as follows:—

"Now, I have to give my ruling regarding the question of privilege against Shri L. N. Mishra. Sarvashri Atal Bihari Vajpayee, Madhu Limaye, Jyotirmoy Bosu and Shyamnandan Mishra gave notices of question of privilege against Shri L. N. Mishra, Minister of Railways. They also made their submissions in the House on the 4th, 5th, 11th, and 12th December, 1974, on the admissibility of their notices.

The facts are as follows:—

(i) On 28 August, 1974, Shri L.N. Mishra made a statement in the House as follows:—

'I recollect having received a letter purporting to bear the signatures of a number of MPs when I was in charge of the former Minister of Foreign Trade. As far as I remember, I passed on the letter to the officer concerned in the normal course of business. No order was passed by me, nor any licence was issued during the period I remained in that Ministry. I strongly repudiate the allegation that I had anything to do with the obtaining of

signatures on the application or grant of licence. I repeat, Sir, none of these licences were issued during my stewardship of the Ministry of Foreign Trade.

- (ii) On the 9th September, 1974, when Shri Atal Bihari Vajpayee said (original in Hindi) that Shri Tulmohan Ram was having a school constructed in his village in the name of Pandit Ravindra Nath Mishra, the father of Shri Lalit Narain Mishra, and that donations had been collected for that purpose, Shri L.N. Mishra, Minister of Railways,

intervened to say:— 'Hum Ko gyat nahin hai' (I do not know).

The contention of the members is that by his above two statements Shri L.N. Mishra has deliberately misled the House. In support of their contention these members have referred to the following passages in the Charge-Sheet filed in the Court against Shri Tulmohan Ram, M.P., and others:—

- (i) 'On 23rd November, 1972, Shri Tul Mohan Ram after meeting Shri L.N. Mishra in his office told S/Shri K.V. Nair and S. M. Pillai that the Minister had asked the CCI&E to examine the position and put up the case early'.
- (ii) 'On 5th February, 1973 Shri K.N.R. Pillai sent an interim report to Shri N.K. Singh saying that a detailed report of the Controller of Pondicherry in this matter was awaited and the Minister be apprised, if necessary. on 5th February, 1973, Shri L.N. Mishra took oath of office of Minister of Railways. On the relevant file there is a noting by Shri N.K. Singh admitted to be dated 5th February, 1973, to the effect that 'Minister desires that this case should be finalised quickly, as it has been pending for a long time. According to his understanding the Public Notices were not properly worded or have been incorrectly interpreted. MFT also feels that if an injustice has been done to the appellant, remedial action should be taken and such reliefs as are possible under the Import Control Regulation should be given to them.

Shri Shyamnandan Mishra also referred to the following noting in a file of which there is no mention in the charge-sheet:—

'Refer my minutes at page 11/N. This matter has been unduly delayed. I should like the points raised in my notes on page 12/N be examined with speed and file submitted to me by the 30th.....'

He also referred to Shri N.K. Singh's note dated the 5th February, 1973 and argued that on the principle of ministerial responsibility, Shri L.N. Mishra should be held responsible for his Officer's action.

As regards the alleged construction of a school in the village of Shri Tul Mohan Ram, M.P., Shri Vajpayee referred to proceedings of a Committee where Shri Tul Mohan Ram had suggested that the school might be named after the name of the father of Shri L.N. Mishra.

Shri L.N. Mishra, Minister of Railways laid on the Table of the House a statement on the 9th December, 1974, explaining the position. In his statement, he stated *inter-alia* as follows:—

'My above statement of August 28, 1974 is factually correct and is fully borne out by the CBI charge-sheet.....'

My hon'ble friends opposite have tried to make much of a note (referred to in the charge-sheet) recorded by Shri N.K. Singh, OSD on the relevant file. The date of the note is admitted to be 5th February, 1973, the date on which I ceased to be a Minister of Foreign Trade. Since this note has been quoted to establish that it is in conflict, with my statement before this House of August 28, 1974, I would like to submit that any such assumption is unwarranted and baseless. Even taking the note as it is, I would emphatically assert that by no stretch of imagination can it be construed as an order or directive from me sanctioning the licence. In fact, no order relating to the issue of these licences, as already stated earlier, was issued until seven months after this note.....

I reiterate that my entire statement of 28th August, 1974 is factually correct and in no way conflicts with the contents of the charge-sheet.....

On 4th December, 1974, Shri Vajpayee quoted from a document which he described as the proceedings of a meeting of the school Managing Committee held on 22nd February,

1973. According to this document, at the meeting, Shri Tul Mohan Ram had suggested the naming of the school after the Railway Minister's late father, Shri Ravindra Nath Mishra. My father's name is Pandit Ravi Nandan Mishra and not Ravindra Nath Mishra.

According to the document from which Shri Vajpayee has quoted. Shri Tul Mohan Ram is reported to have said that he had talked to me about his subject. Sir it this not for me to explain Shri Tul Mohan Ram's statements. I repeat that what I said on 9th September, 1974 is factually correct. Shri Tul Mohan Ram had at no stage discussed with me any proposal in this regard...

I had recorded, I remember; a note almost three months earlier, i.e., in August and that note related to the examination of the matter in the Ministry of Law on certain legal points of discrimination etc. This was for contesting the case in a court of law, and not for helping anybody. This was three months before the memorandum in question was received or you can say memorandum was born.'

In his further statements on the 12th December, 1974, Shri L.N. Mishra has stated *inter alia*:-

'My note of 23rd August, 1972 as also the notings on pages 11 and 12 now popularly known as 11/N and 12/N of the file to which Shri Vajpayee has referred, relate to my decision to contest the case in a Court of Law and obtaining opinion of the Ministry of Law on legal aspects including discrimination. My note of 23rd August, 1972 called for speedy action only in direction of contesting the case in a court of law and not for speedy issue of the licences as alleged.

On the 5th morning, I became Railway Minister. Therefore, whatever happened after I left the Ministry I cannot be held responsible.'

During the course of their speeches, members have raised many issues. Some of them are obviously for debate and decision by the House and do not call for a ruling by me.

However, one important issue raised by Shri Shyamnandan Mishra is whether a Minister is responsible to this House for the actions of his officers. There is no doubt that Ministers are responsible to this House and for all the actions of their officers, and from the statement of Shri L.N.

Mishra, I find that he has not denied responsibility for the actions of his officers during his tenure as Minister of Foreign Trade.

As regards the note by an officer of the Ministry of Foreign Trade on the 5th February, 1973, Shri Mishra has stated that he became Railway Minister that day and he cannot be held responsible for any notings done in the Ministry of Foreign Trade (renamed as Ministry of Commerce) on that day. Strictly speaking, the constitutional position is that any notings done after a Minister has ceased to be Minister of a Ministry will be the responsibility of the Minister who has assumed office of that Ministry on that day and not of the Minister who had left the Ministry.

With respect to the noting in August, 1972 on a file, it is stated by the Minister that it had nothing to do with the application signed by the members of Parliament for grant of a licence, which was of course submitted in November, 1972. So, this is not relevant to the question of privilege under consideration.

The limited question for my consideration is whether the two statements made by the Minister in the House on August 28 and September 9, which are the basis of the questions of privilege by the members have been shown to be false and made deliberately to misled the House in those respects.

On the 28th August the Minister stated that he acknowledged the receipt of the letter, purported to bear signatures of a number of members of Parliament. He also stated that he sent this letter in the normal course of business and that he did not pass any order nor any licence was issued during the period he remained in that Ministry. From the submissions made by the members and the Minister, it is clear that the said statements made by the Minister are factually correct and none of them has been proved false.

So, far as Shri Vajpayee's allegation is concerned, the Minister has stated that he had no knowledge. Shri Vajpayee in his statement has quoted Shri Tul Mohan Ram and Minutes of a Committee. He has not shown anywhere that the statements made by Shri Tul Mohan Ram in a Committee were with the knowledge of Shri L.N. Mishra. In a question of privilege the responsibility and the act of commission or omission must be direct. I do not think this is a case where Shri L.N. Mishra has misled the House.

I therefore do not give my consent to these notices of question of privilege."

247
LOK SABHA
(1974)

Point of privilege

Alleged wrong information given to the House about the arrest of members.

Facts of the case and ruling by the Speaker

On the 15th November, 1974, Shri Digvijay Narain Singh, a member, sought to raise a question of alleged wrong information given to the House about the arrest of Sarvashri Satyendra Narayan Sinha and Digvijay Narain Singh by the District Magistrate, Patna, Shri Digvijay Narash Singh stated that according to the intimation sent to the Speaker by the District Magistrate, Patna, in his telegram dated the 5th November 1974, which was published in the Lok Sabha Bulletin Part II dated the 6th November, 1974, the members were arrested on the 5th November, 1974, While they were actually arrested on the 4th November, 1974. Shri Digvijay Narain Singh contended that the District Magistrate, Patna, had deliberately sent wrong information and had thus committed a contempt of the House.

2. The Speaker (Dr. G.S. Dhillon) observed that he would look into the matter.

3. On the 12th December, 1974, the Minister of Home Affairs (Shri K. Brahmanand Reddy) explained the position as follow:—

“According to information received from the Government of Bihar, Shri Digvijay Narain Singh, MP, Shri Satyendra Narayan Sinha, MP and 15 others were arrested at Boring Road, Patna on the 4th November, 1974 at about 12 noon, for violation of prohibitory orders u/s 144 Cr. P.C. and rule 69 of the Defence of India Rules. It has also been stated by the Government of Bihar that a telegram regarding the arrest of these two members of Parliament was duly sent by the District Magistrate, Patna the same day i.e. on the 4th November, 1974, but owing to unsettled conditions in the town telegraph Office on that day and it was transmitted on the next day. A detailed report about the arrest of these members of Parliament was subsequently sent on the 6th November, to the Hon'ble Speaker by the District Magistrate, Patna, informing him that the aforesaid members of Parliament had been arrested on the 4th November, 1974. The Government of Bihar have also stated that Shri Digvijay Narain Singh, MP, Shri Satyendra Narayan Sinha, MP and other persons arrested along with them were

produced before a Magistrate on the same day. They were remanded to jail custody and lodged at Phulwari Sharif Camp Jail on the night between the 4th and 5th November, 1974. They were released from the Jail on the 10th November, 1974.”

4. The matter was thereafter closed.

248
LOK SABHA
(1975)

Point of privilege

Alleged misleading statement by a Minister in the House

Facts of the case and ruling by the Speaker

On the 24th February, 1975, Shri Jyotirmoy Bosu, a member, sought to raise a question of privilege against the Minister of Home Affairs (Shri K. Brahmananda Reddy) for allegedly making a wrong statement in the House regarding a girl, Miss Farida, who was hurt in shooting in Jama Masjid Area, Delhi, while replying to the debate on the incidents in Jama Masjid Area.

2. The Speaker (Dr. G.S. Dhillon) disallowed the question of privilege and ruled *inter alia*, as follows:—

“There is no privilege involved...The procedure is that in the case of an incorrect statement or observation if a member says that it is not correct or that there is something wrong we sent it, under direction 115, to the Minister and he makes a reply. After that the member concerned has a right again to bring it to the notice of the Speaker and he can make his own statement. That is how the matter is settled...If the Minister says something and you bring some statement from outside, you cannot confront the Minister with that.... Hundred and one things are said by people outside. A Minister is not bound to go by that. If anything is said inside the House and the Minister makes another statement, it is a different issue. If somebody outside says something, you cannot confront the Minister with it inside the House.”

249

LOK SABHA
(1977)

Point of privilege

Alleged misleading statement made by a Minister in the House

Facts of the case and ruling by the Speaker

On the 16th July 1977, Shri B. Rachaiah, a member, sought to raise a question of privilege against the Minister of Home Affairs (Shri Charan Singh) for allegedly misleading the House on the 13th June, 1977, during the course of a statement made by him on a calling attention matter about atrocities on Harijans at Belchi village in Bihar.

2. The Deputy Speaker (Shri Godey Murahari), who was in the Chair, *inter alia*, informed the House as under:—

"...I received three notices of question of privilege from Shri C.K. Chandrappan, Shrimati Parvathi Krishnan, Shri K.A. Rajan, Shri B. Rachaiah and Shri B.P. Kadam regarding alleged misleading information given to the House on 13th June, 1977 in the statement made by the Minister of Home Affairs on the calling attention matter about the atrocities on Harijans in Belchi village in Bihar. In accordance with the practice of the House in such matters, I have sent copies of the notices to the Minister of Home Affairs for his factual comments. I will take a decision in the matter after I receive a reply from the Home Minister."

3. On the 4th August, 1977, Sarvashri C.K. Chandrappan and B. Rachaiah, members, again sought to raise the matter in the House. The Speaker (Shri K.S. Hegde) observed that he had not given his permission as the matter was pending before a court. When the Members stated that the Deputy Speaker had allowed them to raise it under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Speaker observed that he would ask the Deputy Speaker about it.

4. On the 5th August, 1977, the Speaker, while disallowing the question of privilege, ruled as follow:—

"Yesterday, Sarvashri C.K. Chandrappan and B. Rachaiah sought to raise a question of privilege regarding alleged misleading information given to the House on the 13th June, 1977 in the statement made by the Minister of Home Affairs on a calling attention

matter about atrocities on Harijans at Belchi village in Bihar. Some members, stated that the Deputy Speaker had given his consent to raise this matter under rule 222.

I then observed that the records did not show that the Deputy Speaker had given his permission under rule 222. In fact, what the Deputy Speaker had said in the House on the 16th July, 1977 was:—

'...In accordance with the practice of the House in such matters, I have sent copies of the notices to the Minister of Home Affairs for his factual comments. I will take a decision in the matter after I receive a reply from the Home Minister.'

The observations of the Deputy Speaker were communicated in writing to Sarvashri C.K. Chandrappan, K.A. Rajan, B.P. Kadam and Shrimati Parvathi Krishnan on the 16th July, 1977, itself.

However, I observed yesterday that I would consult the Deputy Speaker whether he had given his permission to this matter being raised under rule 222 as claimed by certain Members. The Deputy Speaker has informed me in categorical terms that he had not given permission to any Member under rule 222 to raise this matter in the House.

It is thus clear that the contention of these Members that the Deputy Speaker had given them permission to raise this matter under rule 222 is not correct. I have already disallowed this matter as stated earlier on the ground that the question relating to notice for the occurrence is *sub judice*."

5. Thereafter, the matter was closed.

250

LOK SABHA
(1977)

Point of privilege

Alleged misleading statement made by a Minister in the House.

Facts of the case and ruling by the Speaker

On the 19th July, 1977, Sarvashri Vayalar Ravi and K.P. Unnikrishnan, members, sought to raise a question of privilege against the Minister of Home

Affairs (Shri Charan Singh) for allegedly misleading the House by his certain statements in the House on the 13th and 14th July, 1977, about "thinking" of the previous Government during Emergency to shoot down top Opposition Leaders.

2. While raising the question of privilege, Shri Vayalar Ravi stated *inter alia* as follows:—

"I beg to move, under rule 222, a motion of breach of privilege against the Home Minister regarding his statement made in this House in which he had stated that there was thinking, "vichar" in the Government to kill the opposition leaders.....The Home Minister reiterated his statement the next day and repeated his allegation, saying that the ordinance issued by the President was a preparation for such action. The President, by the ordinance, had expressly suspended the operation of articles 14, 20 and 21....Here is the press report to which the hon. Home Minister referred to a press report regarding the argument of Mr. Niren De in the Supreme Court. It was actually when Justice Khanna specifically asked Mr. Niren De.... This is what it says: 'Justice Khanna pointed out that article 21 dealt not only with personal liberty but also with the right to live. It would follow that during Emergency if somebody's life was taken away by the State without the sanction of law, no action would lie.'. The contention of the Home Minister is that there was a thinking.....From the circumstantial evidence, we can come to a conclusion.....Even today this argument is going on, the argument of the Home Minister, the argument that he put forward that there was some thinking....The purpose it to mislead this House and malign all the Members belonging to the Congress Party sitting on this side. There is no evidence he can produce. Even circumstantial evidence is against it. There was no such law proclaimed."

3. Shri K.P. Unnikrishnan stated *inter alia* as follows:—

"I would take an entirely different point. Here while replying to the debate on the Demands for Grants of the Ministry of Home Affairs the Home Minister Shri Charan Singh on 13 of this month said this after referring to the arguments of Mr. Niren De the then Attorney-General in the Supreme Court, the Home Minister said:

'It did not end there. Preparations were being made for the day when certain leaders could be shot down as had been done in the Dacca jail. There was a thinking (*Vichar*) to shoot leaders right from Jayaprakashji, of need arose.'

This is liable only to three interpretations One, he was not entirely basing his arguments on the arguments of the then Attorney-General Mr. Niren De because he has also used the words, 'It did not end there.' He was making another statement which said that 'preparations were being made'. These 'preparations were being made' were not disclosed by Mr. Niren De or any one else. Mr. Charan Singh had taken it upon himself to inform this august House, rather to deliberately mislead or misinform the House, how it has to be found out whether he was uttering falsehood or misleading or he had some information to substantiate his statement. That is the crucial point. He said, 'Preparations were being made....' and then he said, 'as had been done in Dacca jail'...

...Shri Charan Singh cannot take refuge under the arguments advanced by the then Attorney-General Mr. Niren De, in the Supreme Court...Since it is relevant to the consideration of this privilege motion, I should recapitulate what was said by Mr. Niren De in the Supreme Court... Mr. Niren De was replying to a poser of extreme proposition and a hypothetical case which the bench had developed...

....The words 'preparations' and the reference to the happenings in Dacca make it very clear that he was referring to more 'have what contained' in Mr. De's argument. Neither he substantiated nor denied it. So, my contention is that he was deliberately and wilfully misleading the House and uttering falsehood in the House. That is why I approach you with this case of privilege. Uttering falsehood or deliberately misleading the House constitutes a breach of the House."

4. The Deputy Speaker (Shri Godey Murahari), who was in the Chair disallowed the question of privilege and ruled *inter alia* as follows:—

"In a case where it is alleged that a Minister or a Member has made an incorrect statement in the House the procedure for inviting the attention of the House to such matters is laid down under Direction 115 of Directions by the Speaker which reads as follows:—

'115(1). A member wishing to point out any mistake or inaccuracy in a statement made by a Minister or any other member shall, before referring to the matter in the House write to the Speaker pointing out the particulars of the mistake of inaccuracy and seek his permission to raise the matter in the House.

(2) The member may place before the Speaker such evidence as he may have in regard to the allegation made.

(3) The Speaker may, if he thinks fit, bring the matter to the notice of the Minister or the member concerned for the purpose of ascertaining the factual position in regard to the allegation made.

(4) The Speaker may then, if he thinks it necessary, permit the member who made the allegation to raise the matter in the House and the member so permitted shall, before making the statement inform the Minister or the member concerned.

(5) The Minister or the member concerned may make a statement in reply with the permission of the Speaker and after having informed the other member concerned.

(6) The item regarding statement to be made by the member and the statement are made by the Minister in reply thereto shall not put down in the list of business unless copies thereof have been submitted in writing to the Speaker sufficiently in advance and the Speaker has approved them. Words, phrases and expressions which are not in the statements as approved by the Speaker, if spoken, shall not form part of the proceedings of the House.'

In the present case when the matter was raised in the House earlier on the 14th July, 1977, by Shri Y.B. Chavan Leader of the Opposition under Rule 377, the Minister of Home Affairs had clarified the position.

Now today this matter has again been raised by Shri Vayalar Ravi, the Minister of Home Affairs may again clarify the position. In view of the provisions of Direction 115 and the clarification by the Minister of Home Affairs, the matter may be treated as closed."

5. Thereafter, the matter was closed.

Point of privilege

Alleged misleading information given to the House by Ministers.

Facts of the case and ruling by the Speaker

On the 2nd March, 1978, Shri Shyamnandan Mishra, a member, while raising a matter under rule 377 regarding the payment of 10 to 11 million dollars to a Swiss Bank from the Consolidated Fund of India Stated *inter alia*, as under:—

"....Some time ago during the previous regime, the Ministry of External Affairs had asked an agency of the Government to assist and arrange for the deposit of an amount of 10 to 11 million dollars in a Swiss Bank (probably Union Bank of Switzerland, Geneva) in a numbered account. The order was passed in two instalments, by two Secretaries of the Ministry of External Affairs. The money was released by the Reserve Bank of India, Bombay to be deposited in Geneva... When this Government took over in March last, this strange transaction must have been brought to its notice. So, it must be in a position now to clarify the position regarding it.

One fails to understand why was the Ministry of External Affairs involved in such a transaction. If this was part of commercial deal, it should have been dealt with by a specific company either in the public sector or in the private sector, and not by a department of the Government, much less the Ministry of External Affairs.

Or, if it was part of aid there could be no question of any commission. In the case of a transaction on a State-to-State basis there could be no question of some individuals coming in and receiving any amount.

....The Government should inform the House about the nature of the transfer of 10-11 million dollars to the Swiss Bank about the party to which it was transferred and their findings in respect of the manner in which the Ministry of External Affairs was involved in it."

2. On the 12th April, 1978 the Minister of External Affairs (Shri Atal Bihari Vajpayee) made a statement

in response to the above statement of Shri Shyamnandan Mishra and stated *inter alia*, as follows:—

“...I have carefully enquired into these payments. It is correct that two payments of \$5.5 million each were sanctioned on March 15 and October 28, 1976. These payments were in accordance with the terms of a commercial transaction between the Government of India and the Government of Iran negotiated by our Economic Affairs Department under orders of the then Prime Minister. In accordance with the terms of the agreement, part payments had to be made in Switzerland. Therefore funds were provided under the head of special discretionary expenditure in the budget of the Ministry of External Affairs. The amounts were paid by Cheque and did not involve any illegal payments to any Indian.”

3. Subsequently, Sarvashri K.P. Unnikrishnan and Vayalar Ravi, members gave notices of questions of privilege against the Minister of External Affairs (Shri Atal Bihari Vajpayee) for having deliberately given misleading information to the House on the 12th April, 1978, regarding payment of 11 million dollars to a Swiss Bank, and against the Minister of Finance (Shri H. M. Patel) for including 11 million dollars in the Supplementary Demands for Grants (General) for 1976-77 moved by him on the 30th March, 1977 in Lok Sabha, under Demand No. 32 of the Ministry of External Affairs, under the head ‘Special Diplomatic Expenditure’, though in fact it was not such an expenditure.

In their notices of question of privilege against the Minister of External Affairs, Sarvashri K. P. Unnikrishnan and Vayalar Ravi stated *inter alia*, as follows:—

“The Minister of External Affairs in his statement has said that he had carefully enquired into these payments. It follows that he has looked into all documents concerned with it but he has chosen to hide the truth before the House and has deliberately and wilfully and knowingly misled the House because he was in possession of all the facts. Thus, by hiding the unconstitutional and illegal acts of those who are responsible for this and joining in an attempt to cover up the illegality before the Parliament, the Minister has committed a breach of privilege and contempt of the House.”

In their notices against the Minister of Finance Sarvashri K. P. Unnikrishnan and Vayalar Ravi stated *inter alia*, as under:—

“It has now come to light that a sum within this amount which was voted by the Lok Sabha has been in total violation of the Constitution, Financial Rules and the Allocation of Business Rules, 1961 paid out for a commercial transaction. Therefore, Mr. H. M. Patel who sought the funds for these demands and after concealing its misuse from the Lok Sabha, is guilty of a fraud on Parliament and committed a breach of privilege and contempt of the House.”

4. On the 12th May, 1978, when Shri K. P. Unnikrishnan sought to raise the matter in the House, the Speaker (Shri K. S. Hegde) observed as follows:—

“I want to get some points clarified. Therefore, I am inviting both the Law Minister and the Minister of External Affairs, not only for your motion but also for Mr. Ravi's motion. We will take up that on Monday. I will give you an opportunity and also to the other side to clarify the point.”

5. On the 15th May, 1978, last day of the Budget Session, when Sarvashri K. P. Unnikrishnan and Vayalar Ravi sought to raise the questions of privilege against the Minister of External Affairs (Shri Atal Bihari Vajpayee) and the Minister of Finance (Shri H. M. Patel) for allegedly giving misleading information to the House, the Speaker observed that he had not yet admitted the notices and that he would hear the members only on the question whether he should give or refuse his consent under rule 222 of the Rules of Procedure and Conduct of Business in the House. The Speaker also clarified that it was for him to select the members whom he might hear on the matter.

6. While speaking on the matter Shri K. P. Unnikrishnan stated *inter alia*, as follows:—

“In this case I am not alleging that the Minister did direct the payments. But having come to realise the nature of these payments, having known that it was fraud on the Constitution and Parliament, and five weeks after it was raised in the House, after careful enquiries, the meaning has to be understood clearly, he deliberately and wilfully misled the House, the Minister is guilty of breach of privilege and contempt of

the House. The whole issue is an assault on the Lok Sabha's sovereign jurisdiction over the exchequer, and the Minister is guilty of having committed a fraudulent act...So, my contention is, a *prima facie* case has been made out as is required under rule 222...."

7. Shri Vayalar Ravi, while speaking on the matter, also alleged that the Minister of External Affairs had misled the House by his statement on the 12th April, 1978.

8. The Minister of External Affairs (Shri Atal Bihari Vajpayee), while explaining the position, stated *inter alia*, as follows:—

"I would like to reiterate that there was never any intention nor is there now to suppress information or mislead the House. Indeed, as far as the present Government is concerned there could be no possible reason to do so. In the light of these facts, I would submit respectfully that no motion of privilege against me or my colleague, the Finance Minister, is warranted."

9. After hearing Sarvashri K. P. Unnikrishnan, Vayalar Ravi, the Minister of External Affairs and some other members, the Speaker reserved his ruling on the matter.

10. On the 18th July, 1978, the Deputy Speaker (Shri Godey Murahari) informed the House as under:—

"Hon. Speaker has asked me to read out his ruling on the notices of question of privilege raised by Sarvashri K.P. Unnikrishnan and Vayalar Ravi. The ruling is as follows:—

"The charge against the Minister of External Affairs is that he deliberately suppressed some important facts in the statement made by him on 12-4-1978. The charge against the Finance Minister is that, in the Supplementary Demands for Grants (General) moved by him for 1976-77 on March 30, 1977, before the Lok Sabha, under Demand No. 32 of the Ministry of External Affairs, he had included the aforementioned amount under the head 'Special Diplomatic Expenditure' though in fact it was not such expenditure.

"I shall first take up the charge against the Finance Minister. It may be noted that the expenditure in question was incurred during the previous regime. The present Ministry took charge on the 25th March, 1977. On that day, only the

Prime Minister was sworn in. The Finance Minister was sworn in on the 26th March, 1977. The Supplementary Demands for Grants were made on the 30th March, 1977, that is to say, within four days after assuming charge. The records showed that the expenditure in question was for 'Special Diplomatic Expenditure'. He had no occasion to doubt the genuineness of the record, nor were there any circumstances which could have indicated to him that the expenditure in question was not properly incurred. Before a person can be held guilty of suppression of facts, it must be proved that the suppression in question was a deliberate one. Under the circumstances mentioned above, it was not possible to hold that the Finance Minister had deliberately included the expenditure in question under a wrong head. The records of the External Affairs Ministry showed that the expenditure in question was for special diplomatic purposes. For these reasons, I am unable to accord my consent under rule 222 to the privilege motion against the Finance Minister, Shri H. M. Patel.

Now, coming to the charge against the External Affairs Minister, it is necessary to repeat that all these expenditures were incurred by the previous Government. The present Government had nothing to do with them. My attention has not been drawn to any circumstance from which it could be inferred that the External Affairs Minister had any interest to shield the previous Government. It must be noted that the statement under rule 377. Under that External Affairs Minister made that statement in response to a statement under rule 377. Under that rule, he was not compelled to make any statement. He voluntarily made the statement. This circumstance goes to show that he could not have had any intention to shield any one. In his statement he had clearly stated that the payments in question were made in accordance with the terms of a commercial transaction between the Government of India and the Government of Iran. There is nothing to show that this statement is incorrect. He had further stated that the commercial transaction was negotiated by the Economic Affairs Department under the orders of the then Prime Minister. This averment again is not rebutted. The statement that the payments in Switzerland were made in accordance with the terms of the

agreement between Iran and India is not shown to be incorrect.

'It is true that in his statement he had stated that the payments were made by cheques, though in fact they were made by means of Demand Drafts. But under the Treasury Rules, Demand Drafts are also considered as cheques. None of his statements has been proved to be incorrect.

What is alleged against him is that though he stated that he made the statement after careful inquiry, his statement did not include the full facts as it should have. It is true that there are several circumstances in the case which do require deeper probe, but the fact that his probe had not been deep enough is not a circumstance giving rise to the inference that he was deliberately suppressing some facts from the Parliament. The transactions which are the subject-matter of these proceedings do undoubtedly give rise to a feeling that all was not well with those transactions. But those aspects are wholly insufficient to come to the conclusion even *prima facie* that the External Affairs Minister was deliberately suppressing any of the facts. One has to take note of the fact that in dealing with transactions with foreign countries, the Ministers are naturally guarded in their statements. This is but natural.

For the reasons mentioned above, I refuse to accord my consent to the privilege motion moved by Shri K. P. Unnikrishnan and Shri Vayalar Ravi against the External Affairs Minister Shri Atal Bihari Vajpayee.

The above order was to be announced yesterday. But yesterday morning Sarvashri K. P. Unnikrishnan and Vayalar Ravi brought to my notice the report of a press interview given by the Prime Minister and published in "India Today" dated July 1-15, 1978 at page 53, when the Prime Minister appeared to have stated in answer to a question.

"What answer? For what? The \$11 million was given to the Iranians by us according to their requirements, from their funds not our funds."

According to Sarvashri K. P. Unnikrishnan and Vayalar Ravi, that statement amounts to a total denial of what Shri Atal Bihari Vajpayee had stated and therefore it must be held that Shri Atal Bihari Vajpayee was deliberately misleading the House and uttering falsehood in the House.

I am unable to accept this contention. Apart from the fact that the Prime Minister's answer was cryptic and the context in which he made that remark is not known. I see no contradiction between what the Prime Minister has stated and the statement made by Shri Atal Bihari Vajpayee in the House. Hence, I see no reason to change my earlier conclusions'."

11. The matter was, thereafter, closed.

252

LOK SABHA

(1978)

Point of privilege

Alleged misleading statements made by certain Ministers in the House regarding setting up of a special court to try the former Prime Minister for emergency excesses.

Facts of the case and ruling by the Speaker

On the 19th July, 1978, the Minister of State in the Ministry of Home Affairs (Shri S.D. Patil) gave the following reply to Starred Question No. 60 regarding setting up of a special court to try the former Prime Minister (Shrimati Indira Gandhi) for emergency excesses:—

"The question of setting up a special court to try Smt. Indira Gandhi is under the active consideration of the Government. In view of some doubts about the validity of such a legislation, Government have decided to seek the opinion of the Supreme Court on the question of validity under Article 143 of the Constitution."

Later in the day, during the course of discussion on the Maintenance of Internal Security (Repeal) Bill, 1978, the Minister of Steel and Mines (Shri Biju Patnaik) stated, *inter alia*, as follows:—

"I am saying it as Government that we have decided to set up a Special Court and we are going to refer the matter to the Chief Justice of India in due course. ...A Bill is being brought in this House...under which the Government have decided to refer to the Supreme Court....The Chief Justice of the Supreme Court will be consulted."

2. On the same day, Sarvashri K. P. Unnikrishnan and Vayalar Ravi, members, gave identical notices of a question of privilege against the Minister of State in the Ministry of Home Affairs (Shri S. D. Patil)

stating that it was clear from the statement of Shri Biju Patnaik that the Cabinet had already taken a decision to set up a special court, but the Minister of State in the Ministry of Home Affairs (Shri S. D. Patil) had deliberately concealed this fact and tried to mislead the House that it was still 'under active consideration of the Government.'

3. On the 20th July, 1978, when Sarvashri Vayalar Ravi and K. P. Unnikrishnan sought to raise the matter in the House, the Speaker (Shri K. S. Hegde) informed—

"I have called for a report from the Government and I will decide only after getting the report."

4. On the 25th July, 1978, while disallowing the question of privilege, the Speaker ruled *inter alia*, as follows:—

"Mr. S. D. Patil has given me a reply saying that whatever he has stated is absolutely accurate. I have nothing to show it is not accurate and therefore I disallow the privilege motion."

5. Subsequently, on the same day, Sarvashri K. P. Unnikrishnan and Vayalar Ravi, members, gave identical notices of a question of privilege against the Minister of Steel and Mines (Shri Biju Patnaik) for making a misleading statement in the House during the debate in Lok Sabha on the 19th July, 1978, on the Maintenance of Internal Security (Repeal) Bill, 1978. In their notices, they had stated, *inter alia*, as follows:—

"...if you hold that Mr. Patil had expressed the correct position of the Government, viz. the whole issue was under consideration of the Government, then, Mr. Patnaik was 'wilfully and deliberately' misleading the House. There are material differences in the reply by Mr. Patil and Mr. Patnaik's announcement."

6. On the 28th July, 1978, the Speaker disallowed the notices of question of privilege and ruled as follows:—

"The contention of Shri Biju Patnaik is that in effect what he informed the House was that the Cabinet had decided to constitute a Special Court to try cases arising out of Shah Commission's report if the same is permissible under law and in that regard a decision had been taken to refer the matter to the Supreme Court to ascertain its view; but because of continuous interruptions he was not able to clarify the position.

The question before me is whether Shri Patnaik, deliberately made a wrong statement before the House on 19-7-1978 with a view to mislead the House. Before a statement made by a Member of Parliament can be considered as giving rise to a charge of breach of privilege of the House it is not sufficient to show that his statement is incorrect, it must also be shown that he deliberately made that statement with a view to mislead the House.

I have gone through the proceedings of Lok Sabha held on 19-7-1978. The observations made by Shri Patnaik are somewhat confusing and to some extent contradictory.

The first observation of Shri Patnaik reads:—

'I do not want to argue. I am saying it as Government that we have decided to set up a special court and we are going to refer the matter to the Chief Justice of India in due course.'

He again observed:

'I have said and I repeat for the members of this House that the Government had decided to set up a special court. A Bill is being brought in this House—may be Mr. Ram Jethmalani's Bill (*interruptions*)—under which the Government have decided to refer it to the Supreme Court. This is the decision taken by the Government.'

Again answering Shri A. C. George, Shri Patnaik observed:—

'...I merely conveyed what Government have decided viz., that we wish to try the cases, as follow-up action of the Shah Commission's Report by a special court. And the Chief Justice of the Supreme Court will be consulted. This is a decision of the Government.'

And finally he observed in response to certain criticism of Shri A. C. George:

'When I say that the Government have taken a decision. I am sure the Hon. Members understand—they have been Ministers themselves—that the Cabinet has taken a decision I am sure the hon. Members hand-out by the Cabinet nearly 10 days ago. If it has not come to his notice, I merely wanted to remind Mr. Sathe that such a decision has taken place, and in continuation of that decision, and in pursuance of that decision, the matter will be referred to the Chief Justice of the Supreme Court for his opinion.'

Shri Patnaik repeatedly mentioned two things viz., (1) that the Government has decided to set up a Special Court and (2) they have decided to consult the Supreme Court in that regard. If the observations of Shri Patnaik are read as a whole, as we should, the inference to be drawn is that according to him the Government have decided to set up a Special Court if the Supreme Court upholds the legality of such a procedure (Shri Patnaik's reference to the Chief Justice of India at some places was evidently intended as reference to the Supreme Court).

Despite the fact that Shri Patnaik was mixing up things during his observations, it cannot be said that he was deliberately trying to mislead the House by saying that the Government has finally decided to set up a Special Court. His repeated reference to the consultation with the Supreme Court, or the Chief Justice of India would have been wholly irrelevant if the Cabinet had taken a final decision to constitute a Special Court. All that can be said is that Shri Patnaik was repeatedly putting the cart before the horse.

Under these circumstances, I am unable to hold that Shri Patnaik has committed any breach of privilege of the House. The consent asked for under Rule 222 is accordingly refused."

7. The matter was, thereafter, closed.

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LOK SABHA

(1979)

Joint of privilege

Alleged misleading information given by a Minister in the House during supplementaries to a Starred Question.

facts of the case and ruling by the Speaker

On 8th March, 1979, the Speaker (Shri K. S. Hegde) informed the House as follows:—

"Shri Eduardo Faleiro gave notice of a privilege motion in December, 1978, against the Minister of Energy (Shri P. Ramachandran) for giving certain information which according to him are untrue. These informations were given during the supplementaries to Starred Question No. 249 on 6th December, 1978, regarding the loss incurred by Coal India Ltd. I called for the comments of the Minister of Energy in that regard.

From the factual note furnished by the Ministry of

Energy with the approval of the Minister, I found that the allegation that untrue informations had been given to Lok Sabha deliberately and wilfully by the Minister was not well founded. I did not, therefore, give my consent for raising the matter as a question of privilege under rule 222. A copy of the factual note of the Ministry of Energy was under my direction, given to Shri Faleiro.

In his letter dated the 6th March, 1979, Shri Faleiro took objection to the fact that the note was submitted by Shri R.P. Khosla, Joint Secretary and not by the Minister himself. This objection is not tenable. The note in question was submitted in accordance with the usual practice. I do not think that the Minister has committed any error in doing so, much less a breach of privilege.

By the same letter, Shri Faleiro had given notice of a privilege motion against Shri R.P. Khosla. He contended therein that the factual note supplied by Shri R.P. Khosla with the approval of the Minister was not only uncalled for in this matter but also contained grossly untrue statements to the knowledge of the officer concerned.

In his reply dated 5th March, 1979, Shri Khosla has reiterated the facts submitted by him earlier. He asserted that the facts stated in the note are correct. Shri Faleiro has not placed before me any material to show that the note contained any untrue statement. He has merely asserted that according to his information the facts stated are not correct. He has not even disclosed the source of his information. It may be noted that he was not basing his contention on the basis of personal knowledge. No breach of privilege can be founded on such hearsay information.

Moreover, the note submitted by Shri Khosla was with the approval of the Minister and, therefore, the responsibility for the same is that of the Minister and not of Shri Khosla. He was merely the channel through which the facts were submitted to me. Hence, there can be no question of any privilege motion against Shri Khosla. The consent asked for is not accorded."

2. The matter was, thereafter, closed.

LOK SABHA
(1979)

Point of privilege

Alleged misleading statement made by a member of Rajya Sabha and a former Minister in the House during Fifth Lok Sabha regarding 'Voluntary Disclosures of Income and wealth.'

Facts of the case and ruling by the Speaker

On 23rd April, 1979, the Speaker (Shri K.S. Hegde) informed the House about a notice of a question of privilege given by Shri Jyotirmoy Bosu, a member, against Shri Pranab Kumar Mukherjee, a member of Rajya Sabha and former Minister of State in-charge of the Department of Revenue and Banking, for allegedly making a misleading statement in the House during the Fifth Lok Sabha, Shri Bosu had stated in his notice that on 19th January, 1976, while speaking in Lok Sabha on the 'Voluntary Disclosures of Income and Wealth Bill,' Shri Pranab Kumar Mukherjee had stated, *inter alia* that 'the scheme of voluntary disclosure has proved highly successful' and that 'according to the latest available information, it appears that 2,42,400 persons made declarations of income amounting to Rs. 741.24 crores in the aggregate.'

2. In this connection, the Speaker observed, *inter alia*, as follows:—

"Shri Bosu, relying upon the 123rd Report of the Public Accounts Committee presented to Lok Sabha on the 4th April, 1979 has observed that 'this statement of Shri Pranab Kumar Mukherjee was a wrong statement' and that 'it is a clear case of breach of privilege of the House and needs to be dealt with by the Privileges Committee'.

The statement complained of by Shri Bosu was made on January 19, 1976, in this House while moving a Bill to approve the two Ordinances issued, namely Ordinance No. 15/75 issued on 8th October, 1975 and Ordinance No. 23/75 issued on 29th November, 1975 providing for voluntary disclosures of income and wealth. At that time the House had before it two Motions disapproving the Ordinance in question.

The Public Accounts Committee in the aforementioned Report has observed that even according to the representative of the

Department of Revenue the actual addition to the economy or net wealth was not Rs. 841 crores, but it may be of the order of Rs. 200 crores. They have further observed that 'the Committee are unable to dispel their suspicion that a deliberate attempt was made to magnify the achievements of this scheme nearly by four times and thereby mislead the Parliament and the people. The Committee recommended that an independent enquiry should be conducted to fix responsibility for this wilful distortion of facts....

The question is whether the House was deliberately misled. If so, who is responsible for it? I expect the Government to direct an enquiry into these questions without delay. This is a serious matter. It looks as if this House was taken for a ride. I would keep this matter pending till the enquiry report is available on the assumption that the enquiry will be held urgently."

3. On 16 May, 1979 the Speaker observed, *inter alia*, as follows:—

'I have since received a detailed note from the Ministry of Finance which has been sent with the approval of the Deputy Prime Minister and Minister of Finance on the matter.

In their note, the Ministry of Finance after describing the manner and circumstances in which the figure of voluntary disclosures stated by Shri Pranab Kumar Mukherjee in Lok Sabha on the 19th January, 1976, was calculated, concluded that 'the figure of Rs. 812.11 crores was arrived at by *aggregating* the amount of wealth/value of assets disclosed for different assessment years in declarations made under section 15(1) of the Ordinance'. The Ministry of Finance further stated that 'in para 207 of the 123rd Report of Public Accounts Committee, the Committee have recommended an independent enquiry in the matter' and that 'this recommendation will be pursued by the Government and the results reported expeditiously to the Public Accounts Committee'. In that Report no finding was given fixing up the responsibility for the incorrect information.

In view of the above position stated by the Ministry of Finance and in view of the fact that Shri Pranab Kumar Mukherjee

is a sitting member of the other House against whom a question of breach of privilege can be dealt with only by the other House in accordance with the procedure laid down in the Report of the joint sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha which was adopted by both Houses of Parliament, I refer the matter to the Chairman of the Rajya Sabha.'

4. On 18th May, 1979, the Speaker, Lok Sabha, addressed a letter to the Chairman, Rajya Sabha, enclosing there with the relevant extracts from the Lok Sabha Debates dated 23rd April and 16th May, 1979, for information and necessary action in terms of the procedure laid down in the Report of the Joint Sitting of the Committee of Privileges of Lok Sabha and Rajya Sabha adopted by both the Houses of Parliament.

5. On 21st May, 1979, the Chairman, Rajya Sabha (Shri B.D. Jatti), informed the House that he had received the following communication dated 18th May, 1979, from the Speaker, Lok Sabha:—

"Shri Jyotirmoy Bosu, M.P., gave notice of a question of privilege regarding an alleged misleading statement made in Lok Sabha on the 19th January, 1976, by Shri Pranab Kumar Mukherjee, M.P. (Rajya Sabha) when he was functioning as Minister of State of the Department of Revenue and Banking on the subject of voluntary disclosure of income and wealth. Shri Jyotirmoy Bosu based this allegation on the observations and recommendations made by Public Accounts Committee in their 123rd Report (Sixth Lok Sabha).

The matter came up in the Lok Sabha on 23rd April and 16th May, 1979, and I enclose here with the relevant extracts from the Lok Sabha Debates 23rd April and 16th May, 1979, for information and necessary action in terms of the procedure laid down in the Report of the Joint Sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha adopted by both Houses of Parliament."

6. A communication was then addressed to Shri Pranab Kumar Mukherjee enquiring from him as to what he had to say in the matter to enable the Chairman to consider the complaint forwarded to him by the Speaker, Lok Sabha. The Chairman, after considering the matter in the light of the comments

received from Shri Mukherjee, referred it to the Committee of Privileges for examination, investigation and report, under Rule 203 of the Rules of Procedure and Conduct of Business in Rajya Sabha on 27th June, 1979.

Findings and recommendations of the Committee of Privileges of Rajya Sabha

7. The Committee of Privileges, after considering the matter, in their Seventeenth Report presented to the House on 17th March, 1979, reported, *inter alia*, as follows:—

- (i) "In the opinion of the Committee..... acts which mislead or tend to mislead must be done wilfully with the intention to mislead or deceive. Thus, the element of deliberateness is an essential ingredient implicit in the alleged offence of deliberately misleading the House. The Committee is aware that a number of statements which come up before the House are sometimes found not wholly true. There may be many statements made before the House which may in the end be found to be based on wrong information given to those who made them. Such statements will not, therefore, in the opinion of the Committee, constitute a contempt if the persons had made them in the belief that the information contained in the statement was true."
- (ii) "On the basis of the facts and record available to the Committee, the Committee addressed itself to the limited question whether by making the impugned statement Shri Mukherjee had deliberately misled the House so as to constitute a breach of privilege and contempt of the House."
- (iii) "Shri Mukherjee in his letter dated June 6, 1979,.... has, *inter alia* stated as follows:

"The figures which I quoted on the floor of the Lok Sabha as the then Minister of State In-charge of the Department of Revenue and Banking, were provided to me by the Department. As a Minister one has to depend on the information provided to him by the Department and one has no option but to accept it and to communicate it to the House accordingly. It is not possible for any Minister to himself collect the statistical information of such nature from every nook and corner of the country."

In the above said letter, Shri Mukherjee, while denying that he had committed any breach of privilege, has also stated that he had no intention of misleading the House at any stage by providing wrong information, or by exaggerating the same. He has further stated that the figures which were provided to him by the Department were believed by him to be true and correct and he accordingly reported the same to the House. This stand is borne out by the evidence given by the representative of the Department of Revenue referred to in para 207 of the Report of the Public Accounts Committee."

- (iv) "In the light of the categorical statement of Shri Mukherjee that he had no intention at any stage to mislead the House and that the figures supplied to him by the Department were believed by him to be true and correct, the Committee is of the opinion that Shri Mukherjee has not made any statement to the House with a view to deliberately misleading it. The Committee is fortified in taking this view not only by the evidence given before the Public Accounts Committee by the representative of the Department of Revenue, but also by the enquiry held by Shri J.P. Kacker, formerly Secretary, Department of Expenditure (Ministry of Finance) in regard to the computation of net wealth disclosed under the Scheme of Voluntary Disclosure in 1975 as recommended by the Public Accounts Committee. According to the conclusions contained in Shri Kacker's Report which have since been accepted by Government and a copy of which was made available to the Committee by the Ministry of Finance, the method adopted by the Central Board of Direct Taxes for computation of net wealth under the said Scheme was in consonance with the practice followed by the Comptroller and Auditor General and that there was neither any evidence in the files to show that there was pressure to present inflated figures nor was there any ground for suspecting any *mala fide* in the computation of figures for presentation to Parliament. These conclusions also lend support to the contention of Shri Mukherjee that he made the impugned statement in the Lok Sabha on the basis of the information provided to him by the Department which he believed to be true and correct."

- (v) "In the circumstances, the Committee feels that Shri Mukherjee has not committed any breach of privilege either of the House or of the members by making the impugned statement. The Committee, therefore recommends that no further action need be taken by the House on Shri Jyotirmoy Bosu's complaint against Shri Pranab Mukherjee."

Action taken by the House

8. No further action was taken by the Rajya Sabha in the matter. A copy of the Report of the Committee of Privileges was forwarded to the Speaker, Lok Sabha by the Chairman, Rajya Sabha on 17 March 1980. No further action was taken in the matter by the Speaker, Lok Sabha.

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LOK SABHA

(1980)

Points of privilege

- (i) *Alleged misleading information given to the House by Ministers regarding the reported arrest of a police officer; and*
- (ii) *Alleged derogatory reference to Parliament made by a Chief Minister during his press conference when a privilege matter was pending before the House.*

Facts of the case and ruling by the Speaker

On 29th January, 1980, Shri Jyotirmoy Bosu, a member, during the course of supplementaries to Short Notice Question No. 1 regarding- Special Courts, enquired from the Minister of Law, Justice and Company Affairs (Shri P. Shiv Shankar) "why the D.I.G., CBI; who was looking after the 'Qissa Kursi Ka' case has been arrested this morning and taken to Gurgaon Jail?". In reply, the Minister of Law stated that "....this question does not arise". A little later, in reply to another supplementary question by Shri Atal Bihari Vajpayee, another member, the Law Minister stated: "May I say this much that on the information of my colleague, the hon. Home Minister, this gentleman has not been arrested at all".

Later, on the same day, Shri Jyotirmoy Bosu gave notice of a question of privilege against both the Ministers of Law and Home Affairs for giving alleged misleading information to the House regarding the reported arrest of Shri N.K. Singh, D.I.G., C.B.I.; Prof. Madhu Dandavate and Sarvashri Chandrajit Yadav, Bapusaheb Parulekar, Ram Vilas Paswan and

Atal Behari Vajpayee also gave similar notices of question of privilege against the Ministers of Law and Home Affairs.

2. On 30th January, 1980, the Speaker (Shri Bal Ram Jakhar) informed the House, *inter alia*, as follows:—

"I have received notices of question of privilege from some members against the Minister of Law, Justice and Company Affairs for making an alleged misleading statement in the House on 29 January, 1980, regarding the reported arrest of Shri N.K. Singh, DIG, CBI.

I have referred these notices to the Minister of Law, Justice and Company Affairs to ascertain the factual position in the first instance, as per established practice in the matter, and then I will.... give my ruling before the 2nd February, 1980."

3. On 1st February, 1980, the Speaker further informed the House *inter alia* as follows:—

"As I had mentioned in the House on 30 January, 1980, I had referred the notices of question of privilege regarding, reported arrest of Shri N.K. Singh, DIG, CBI, to the Minister of Law, Justice and Company Affairs. A further notice received in the evening on that day from Shri Ram Jethmalani on the same subject was also referred to the Minister of Home Affairs and the Minister of Law.

I am in touch with the Ministers concerned and they have informed me that they are obtaining the requisite information from the Government of Haryana and expect to furnish it during the course of the day. Thereafter, I will go urgently into the admissibility of the notices and hope to give the ruling tomorrow.... I am also referring the notice of Prof. Madhu Dandavate (against the Chief Minister of Haryana)¹ to the Home Minister for a factual statement I may mention that Shri Bhajan Lal, Chief Minister of Haryana is a member of the Assembly of Haryana. not of this House. We shall consider it."

4. On 2nd February, 1980, the Speaker while disallowing the question of privilege, ruled, *inter alia* as follows:—

"As mentioned by me in the House earlier, the notices of question of privilege given by some Members against the Minister of Law, Justice and Company Affairs and the Minister of Home Affairs for giving alleged misleading information to the House on 29 January 1980, regarding the reported arrest of Shri N.K. Singh, DIG, CBI were referred by me to the Ministers concerned for furnishing factual notes for my consideration. A notice of question of privilege given by Prof. Madhu Dandavate against the Chief Minister of Haryana on the same matter was also referred by me to the Minister of Home Affairs."

I have since received factual notes from the Ministry of Law, Justice and Company Affairs and the Ministry of Home Affairs.

The Ministry of Law, Justice and Company Affairs in their factual note has stated, *inter alia* as follows:

'...attention is invited to the following extract from the uncorrected report of the proceedings of the House made by the Minister which alone would appear to be relevant insofar as the alleged arrest of Shri N.K. Singh is concerned:—

"May I say this much that on the information of my colleague, the Hon'ble Home Minister, this gentleman has not been arrested at all."

As is clear from the Statement attributed to the Minister, it was made by him in the House on the basis of information supplied at that very moment by a Cabinet colleague.

It is thus clear that all that had been done by the Minister was to pass on information received by him from a colleague.'

The Minister of Home Affairs in his factual note has stated *inter alia*, as follows:—

'Information communicated by me to the Law Minister was based on information which was obtained on telephone from the Government of Haryana. On 29th January I received a

¹For allegedly making a derogatory reference of Parliament during his press conference when a privilege matter on the same Subject was pending before the House.

demi-official letter from the Chief Minister of Haryana, who was camping at New Delhi on that day....subsequently, a wireless message was received late in the evening of the 31st January from the Home Secretary of Haryana Government.... it would be seen that the information furnished by the Government of Haryana has consistently been that Shri N.K. Singh has not been arrested. The information given by me was thus based on information furnished by the Government of Haryana.'

As my distinguished predecessor, Dr. G.S. Dhillon ruled in the House in a similar case on 2nd December, 1974:—

"In order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. In this connection, I may refer to a ruling given on 18th April 1966 by the then Speaker, Sardar Hukam Singh. The ruling was as follows:

'If there is any discrepancy or a statement is not correct, there is no question of any privilege motion unless it is proved that a wrong statement has been made deliberately, knowing the true position.'

In view of the factual position stated by the Minister of Law, Justice and Company Affairs and the Minister of Home Affairs, I think that no misleading information was deliberately given to the House by the Minister of Law, Justice and Company Affairs and the Minister of Home Affairs.

As regards the notice of question of privilege by Prof. Madhu Dandavate against the Chief Minister of Haryana, I have received a letter from the Chief Minister of Haryana in which he has stated, *inter alia*, as follows:—

'It is true that I held a Press Conference at my residence on the 31st January, 1980. Nearly a dozen and a half Press-Correspondents including the representative of the *Indian Express* were present. It is true that I was asked some questions about the matter concerning the N.K. Singh incident and several newspapers other than the *Indian Express* and including

the *Hindustan Times*, the *Statesman*, *Patriot* and the *Tribune* have reported the gist of my replies. I had merely stated in answer to a correspondent's question that according to me it was not necessary for the concerned police authorities to wait for the Parliament to adjourn before any action on the complaint against Shri N.K. Singh was initiated. There was no explicit or implied disrespect to the Parliament in my reply... In the end, I would like to assure you and through you the Hon'ble Members of the Parliament that I have the highest regard for the Parliament and hold this supreme law maker of our land in the highest esteem.'

I do not, therefore, give my consent to the matter being raised as a question of privilege under Rule 222."

The matter was, thereafter, closed.

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LOK SABHA

(1980)

Point of privilege

Alleged misleading information given to the House by a Minister during supplementaries to a Starred Question.

Facts of the case and ruling by the Chair

On 26th March, 1980, Shri Jyotirmoy Bosu, a member, sought to raise a question of privilege against the Minister of Energy, Irrigation and Coal (Shri A.B.A. Ghani Khan Choudhury) for allegedly giving misleading information to the House on 11 March, 1980, during supplementaries to Starred Question No. 3, relating to power generated by the Damodar Valley Corporation.

2. While disallowing the question of privilege, the Deputy Speaker (Shri G. Lakshmanan), observed *inter alia*, as follows:—

"After going through the factual note furnished by the Minister for Energy and Irrigation and coal I do not find that the Minister has deliberately given any misleading information to the House. I have not therefore given my consent to Shri Bosu to raise the matter in the House as a question of privilege. A copy of the Minister's factual note has already been given to

Shri Bosu. If Shri Bosu still considers that there is any discrepancy in the statement of the Minister he may give notice under Direction 115 which will be examined on merits...."

3. Subsequently on 28 March, 1980 when Shri Bosu sought to raise the matter under Direction 115 the Speaker (Shri Bal Ram Jakhar) observed, *inter alia*, as follows:—

"....I do not find any substantial inaccuracy in the answer given by the Minister. I have not therefore, given my permission to raise this matter under Directin 115."

4. The matter was, thereafter, closed.

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LOK SABHA

(1980)

Point of privilege

Alleged misleading information given to the House by a Minister.

Facts of the case and ruling by the Speaker

On 18th June, 1980, during discussion in the House on a calling attention matter regarding the token strike by Resident Doctors in the major hospitals in Delhi, Shri Ram Vilas Paswan, a member, enquired from the Minister of Education and Health and Social Welfare (Shri B. Shankaranand), "whether on a memorandum on behalf of Junior Doctors of Delhi was given to you or not". "In reply to this question the Minister stated, "I have not received it".

2. On 19th June, 1980, Shri Ram Vilas Paswan and on 20th June, 1980, Shri Atal Behari Vajpayee and Shri Jyotirmoy Bosu, members, gave notices of a question of privilege against the Minister of Education and Health and Social Welfare for allegedly misleading the House on 18th June, 1980, while giving a reply in the House regarding the token strike of the Resident Doctors in major Delhi Hospitals.

Shri Ram Vilas Paswan in his notice of question of privilege, stated, *inter alia*, as follows:—

"In this connection I am enclosing a copy of receipt of the memorandum of Junior Doctors Federation of Delhi as received by Shri N.K. Dubey, P.S. to the Minister of Education and Health for your perusal—it is a photostat copy. It clearly shows that the Hon'ble Minister has

deliberately spoken untruth and has misled the House. It is a contempt of the House".

Later on 23rd June, 1980, Shri K.A. Rajan, another member gave similar notice against the Minister of Education and Health and Social Welfare regarding this matter.

3. On 30th June, 1980, on receipt of the Minister's comments, after the Speaker (Shri Bal Ram Jakhar) had withheld his consent to the raising of the question of privilege in the House, Shri Ram Vilas Paswan sought to raise the matter in the House. The Speaker then observed "I have given my ruling after full study....You can give notice under Direction 115".

4. On 7 July, 1980, making a statement under Direction 115, Shri Ram Vilas Paswan, stated, *inter alia*, as follows:—

"...It was revealed that this memorandum was received in the office of the Hon'ble Minister on 5 June, 1980, and its receipt was obtained.

It is clear, therefore, that the Health Minister has made a wrong statement before the House. You are therefore, requested to direct the Hon'ble Minister to make a statement in this matter and tender apologies to the House".

The Minister of Education and Health and Social Welfare, thereupon made the following statement in the House:—

"It may kindly be recalled that the Calling Attention Notice was 'to call the attention of the Minister of Health to the reported token strike by the Resident Doctors in major Hospitals in Delhi on 16-6-1980' and I made a statement about the token strike by the Resident Doctors on 18th June, 1980. In the course of the questions by the Hon'ble Members of Parliament and my replies to them, Shri Ram Vilas Paswan M.P., while expressing concern about the demands of the Resident Doctors asked whether I had received any memorandum of the Junior Doctors Federation of Delhi on 5th June, 1980. Since the Calling Attention and my statement and the question of all the previous members who asked the questions were concerned mainly on the token strike of the Resident Doctors on 16th June, 1980, I believed that the Hon'ble member's question was about some memorandum of the Resident

Doctors relating to token strike and quite innocently replied in the negative of the receipt of such a memorandum.

Since the point was raised by members, I had a thorough search made and found that a memorandum by the Junior Doctors Federation had been received in my office. In the circumstances I express my sincere regrets for the incorrect reply to a supplementary which was inadvertently given."

The matter was thereafter closed.

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LOK SABHA

(1981)

Point of privilege

Alleged misleading information given by a Minister regarding his personal bio-data published in "Seventh Lok Sabha: Who's Who"

Facts of the case and ruling by the Speaker

On 2nd March, 1981 the Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

"I have to inform the House that on 16th February, 1981 Shri Jyotirmoy Bosu, M.P., gave notice of a question of privilege against the Minister of Energy (Shri A. B. A. Ghani Khan Chaudhuri) for giving misleading information regarding his personal bio-data published in 'Seventh Lok Sabha: Who's Who' describing himself as 'Bar-at-Law' and 'unmarried'".

In this connection Shri Bosu also enclosed a copy of the judgment of the Election Tribunal, West Bengal, in the case of Majibar Rahman Chaudhuri *versus* Abdul Barkat Ataul Gani, delivered on 4th March, 1953, wherein the election of Shri A.B.A. Ghani Khan Chaudhuri to the State Legislative Assembly of West Bengal was called in question. In that case, while dismissing the election petition, the Election Tribunal, West Bengal, had *inter alia* observed as follows:—

"We cannot but strongly condemn the conduct of the respondent for such a false propaganda announcing that he had higher personal qualification.

* * *

In the present case, judging, from all the points of view, we cannot hold that the false propaganda

of "Bar-at-Law" did, as a matter of fact, interfere with the exercise of the electoral right of voting. The Tribunal, accordingly, holds that the propagation of the mis-statement about the personal qualification of the respondent, though highly objectionable did not in the eyes of law constitute a corrupt practice with the meaning of section 123(2) of the Representation of the People Act, 1951, and as such no order can be made under section 100(1) (a) of the said Act'.

The matter was referred to the Minister of Energy for his comments under my direction. The Ministry of Energy in their reply approved by the Minister stated *inter alia* that supply of wrong information regarding the personal bio-data of Shri A.B.A. Gani Khan Chaudhuri for publication in 'Seventh Lok Sabha Who's Who' was a case of 'genuine oversight' for which 'regret was also expressed genuinely' by the Minister.

As regards the election petition relating to 1953, the Minister of Energy *inter alia* stated that 'this election petition, which was filed against the Union Energy Minister and which came right upto the Supreme Court was decided in his favour.'

It may be mentioned that the matter sought to be raised by Shri Bosu was also raised earlier by Shri Bapusaheb Parulekar on 18th November, 1980, when the Minister of Energy had explained the position and the matter was treated as closed.

I have examined the matter carefully and find that the alleged statement about this bio-data were not made by Shri A.B.A. Ghani Khan Chaudhuri in the House. One of the alleged statements was the subject matter of an election petition while the other statement was published in a book. It is thus clear that no misleading information was given to the House as such and no question of privilege arises in the matter. I do not, therefore, give my consent to raise the matter in the House as a question of privilege under Rule 222."

The matter was thereafter closed.

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LOK SABHA
(1981)

Point of privilege

Alleged misleading of the House by the Prime Minister

Facts of the case and ruling by the Speaker

On 28th August, the Speaker (Dr. Bal Ram Jakhar) informed the House as follows:—

“Shri R.N. Rakesh has given notice of a question of privilege against the Prime Minister on the ground that she allegedly misled the House on 2nd August, 1981 by denying that she had made statement that is the people in Garhwal would not vote for her party in the by election, there would be no progress in that area. In this connection, he has cited a news bulletin broadcast by All India Radio and a news report published in the newspapers.

I find that both the news bulletin broadcast by AIR as well as the news report published in the newspapers are different from what Shri Rakesh has alleged. Moreover, it is well established practice that when a Minister or a Member denies statement reported in the newspapers etc., the denial is accepted and the matter is allowed to rest at that. I do not, therefore, give my consent to raise the matter under Rule 222.”

The matter was, therefore, closed.

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LOK SABHA
(1981)

Point of privilege

Alleged misleading of the House by a Minister, alleged casting of reflections on the Minister by a journalist in an article published in a newspaper and alleged casting of aspersions on the House by a former Member of Parliament.

Facts of the case and ruling by the Speaker

On 2nd September, 1981 while replying to clarificatory questions on Calling Attention regarding the reported irregularities in the matter of granting income-tax exemptions to certain Trusts in Maharashtra, the Minister of Finance (Shri R.

Venkataraman) stated *inter alia*, as follows regarding alleged naming of a Trust as “Indira Gandhi Pratibha Partishthan”:—

“....Ordinarily the Prime Minister does not allow her name to be associated with any such trust or anything like that. Generally when people ask for such permission, she does not give. In this case, because they said that it is all for the purpose of doing a great deal of service—she did not agree to her name being put in—she only agreed to the objects. Thereafter, when her name was being used, she said, ‘Please take it away’. And, in deference to her wishes...”

I am informed on very reliable authority that the Prime Minister did not inaugurate this....”

2. On 4th September, 1981, the Speaker (Dr. Bal Ram Jakhar) informed the House as follows:—

“Notices of questions of privilege have been given by Sarvashri George Fernandes, Atal Bihari Vajpayee, Jyotirmoy Bosu, Mani Ram Bagri and Prof. Madhu Dandavate, Members of Parliament, against the Minister of Finance, Shri R. Venkataraman, for allegedly misleading the House on September 2nd, 1981, while replying to clarificatory questions on the Calling Attention regarding the reported irregularities in the matter of granting income-tax exemptions to certain trusts in Maharashtra I will get the facts and let you know I will send them all to the Finance Minister concerned.”

The members enclosed with their notices xerox copies of the *Lok Rajya* dated 16th October, 1980, a Government of Maharashtra publication, and some other newspapers, which carried a photograph with the caption “Prime Minister Shrimati Indira Gandhi, giving her consent to name the foundation to be established in Maharashtra as ‘Indira Gandhi Pratibha Pratishthan’.” and had alleged that the Finance Minister had by stating in the House on 2nd September, 1981, that “in this case she (Prime Minister) did not agree to her name being put in she only agreed to the objects” and that “the Prime Minister did not inaugurate this”, deliberately misled the House.

3. On 7th September, 1981 the Speaker observed *inter alia* as follows:—

“I, had informed the House on 4th September, 1981, that I had received notices of question of

breach of privilege from Sarvashri George Fernandes, Atal Bihari Vajpayee, Jyotirmoy Bosu, Mani Ram Bagri and Prof. Madhu Dandavate against the Minister of Finance, Shri R. Venkataraman for allegedly misleading the House on September 2nd, 1981, while replying to clarificatory questions on the Calling Attention regarding the reported irregularities in the matter of granting income-tax exemptions to certain trusts in Maharashtra.

As I informed the House on that day, these notices were referred to the Minister of Finance for furnishing his factual comments.

Today I have also received notices of question of privilege on the same subject from Sarvashri Madhu Dandavate K.P. Unnikrishnan, Ram Jethmalani and Ram Vilas Paswan.

Prof. Madhu Dandavate and Sarvashri K. P. Unnikrishnan and Ram Vilas Paswan have, with their notices enclosed xerox copies of the 'Lok Rajya' dated the 16th October, 1980, which carried the caption Prime Minister Shrimati Indira Gandhi, giving her consent to name the foundation to be established in Maharashtra as Indira Gandhi Pratibha Pratishthan'.

This photograph is the same which had been enclosed with the earlier notices.

I have this morning received a detailed note from the Minister of Finance together with a number of enclosures, in which the Minister of Finance has *inter alia* stated that notices rely on newspapers' reports which had reproduced photograph with the caption 'Prime Minister Indira Gandhi affixing her signature of the document giving her consent to name the Maharashtra Government trust for promoting talent in literature and the fine arts as "Indira Gandhi Pratibha Pratishthan".' The Finance Minister has furnished the original as well as xerox copy of the document in question and it is seen therefrom that the Prime Minister had signed a document bearing the caption 'Pratibha Pratishthan Maharashtra' and not 'Indira Gandhi Pratibha Pratishthan'. The Finance Minister has

also stated that the Trust in question was registered on 18th November, 1980, and therefore there is no question of its being inaugurated by the Prime Minister on an earlier date, namely, 11 October, 1980.

As I have already mentioned the document which had in fact been signed by the Prime Minister was 'Pratibha Pratishthan Maharashtra' and not 'Indira Gandhi Pratibha Pratishthan'. The fact that some newspapers and other publications have given a wrong and misleading caption cannot alter the basic fact that the document signed by the Prime Minister referred only to 'Pratibha Pratishthan Maharashtra'.

According to May's Parliamentary Practice, in the British House of Commons, a deliberately misleading statement by a Member or Minister is a contempt of the House as had happened in the Profumo's case in 1963. It has been ruled earlier by my distinguished predecessors that in order to constitute a breach of privilege or contempt of the House. It has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. A breach of privilege can arise only when a Member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly.

I had also occasion to rule on a similar notice of question of privilege against the Minister of Law on 2nd February, 1980, that no question of privilege is involved unless it is proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House.

Having regard to the facts of the case as mentioned above and the rulings and precedents bearing on the subject, I am convinced that there was no attempt by the Minister of Finance to mislead the House much less deliberately while replying to the clarificatory questions on the Calling Attention on 2nd September, 1981, and the therefore I do not give my consent to these notices under rule 222."

After the Speaker gave his ruling, several members sought to raise points of order that they should have

been heard in the House by the Speaker before giving his ruling and contended that they had some additional evidence with them in that regard. The Speaker, then observed, *inter alia* as follows:—

“You convince me and I will see....My ruling is final till it is revised.....I am open to correction. I am open to suggestion.”

4. On 8th September, 1981, immediately after the House assembled when several members again sought to raise the matter in the House the Speaker observed”, as follows:—

“The specific question that was under consideration related to Notices under Rule 222. The duty cast on the Speaker is to see whether a *prima facie* has been made out for a matter being given priority for being raised as a matter of privilege under 222. The Chair has to be guided in this respect by the Rules, precedents and rulings given earlier on the subject. I had most carefully gone into these notices and felt that a clarification from the Minister of Finance was called for. After I received the clarification it was evident that the Minister of Finance had not at all misled the House, far less deliberately, and, therefore, consent could not be given to the matter being raised as a question of privilege under Rule 222 and I had informed the House accordingly.

The Leaders of Groups in Opposition and some other hon. Members had seen me yesterday and I had shown them the original documents as signed by the Prime Minister. It is clear from the document as well as the clarification furnished by the Minister of Finance and the supporting enclosures thereto that the document which had in fact been signed by the Prime Minister was ‘Pratibha Pratishthan Maharashtra’ and not ‘Indira Gandhi Pratibha Pratishthan’.

As I said in the House yesterday if there are any other documents or evidence the Members are free to adduce the same by way of further Notice under Rule 222, and I am prepared to examine these notices in the light of Rules precedents’ and past ruling.”

5. On 8th September, 1981, Shri George Fernandes sought to raise in the House a question of privilege against Shri Arun Shourie, Executive Editor of the *Indian Express* for publishing an article in the *Indian Express* dated 4th September, 1981, under the caption ‘Petty Little Lies in Parliament’ which

referred to the Finance Minister’s statement in the House on 2nd September, 1981, alleging that the Minister had lied in Parliament on that day. The Speaker observed that he was looking into the matter.

6. On 14th September 1981, several members gave notices of a question of privilege against Shri Krishan Kant, a former member, for his reported remarks: “has the institution of Parliament become so impotent that it cannot safeguard its dignity and honour and that of its presiding officers? Has Parliament been reduced to a prostitute and a spinster;” published in the *Indian Express*, dated 14th September, 1981.

7. On 14th September, 1981, Shri Bapusaheb Parulekar and Prof. Madhu Dandavate, members, also gave notices that they would like to raise some issues and points of order in the House before the Speaker gave his ruling on the matter.

On 16th September, 1981, the Speaker observed as follows on the points raised by Shri Bapusaheb Parulekar and Prof. Madhu Dandavate, in their notices:—

“A question of privilege takes precedence over other matters, and, therefore, it has been provided in our Rules that such a question may be only raised with the consent of the Speaker. The duty cast on the Speaker is to see whether a case has been made out for a matter to be given such a precedence.

I had observed in the House on 8th September, that if there were any other documents or evidence the Members were free to adduce the same by way of further notice under Rule 222 and I am prepared to examine these notices in the light of Rules, precedents and past rulings.

As adequate opportunity had already been given to Members to bring to notice any additional matter having a bearing on this privilege issue, the question of allowing any further submissions to be made in the House does not arise.

Incidentally, in the House of Commons, U.K. following the report of the Committee of Privileges of 1976-77 it has been decided that question of privilege would not be raised directly in the House, but only after the matter had been gone into by the Hon. Speaker there and consent

communicated to the Member concerned. In fact, the report of the Privilege Committee goes on to state that:

'If Mr. Speaker decided against giving precedence he would inform the Member by letter and it would not be in order to raise the matter of precedence with him in the Chamber'."

8. The Speaker also gave his ruling on the notices of questions of privilege against the Finance Minister, Shri Arun Shourie and Shri Krishna Kant as follows:—

"On 7th September, 1981, while giving my ruling on the question of privilege sought to be raised against the Minister of Finance, Shri R. Venkataraman, for allegedly misleading the House on September 2nd, 1981. I had observed that on the basis of facts adduced before me, I was convinced that there was no attempt by the Minister of Finance to mislead the House, much less deliberately, while replying to the clarificatory questions on the Calling Attention on 2nd September, 1981. I had accordingly withheld my consent under Rule 222.

On 8th September, 1981, I had observed that the notices were under Rule 222 and the duty placed on the Speaker was to see whether *prima facie* case had been made out for the matter being given priority to be raised as a question of privilege. In this respect the Chair has to be guided by rules, precedents, rulings given earlier on the subject and it was in the light thereof that I had given the ruling on 7th September, 1981 but I had stated that if there were any other documents or evidence the Members were free to adduce the same by way of further notices under Rule 222 and I was prepared to examine these notices in the light of Rules, precedents and past rulings.

I have received further notices and communications from Sarvashri George Fernandes, Harikesh Bahadur, K.P. Unnikrishnan, Madhu Dandavate, Satyasadhan Chakraborty, Indrajit Gupta, Chitta Basu, Atal Bihari Vajpayee, Ram Vilas Paswan, Satish Agarwal, Somnath Chatterjee, Rashid Masood and Ajit Kumar Mehta.

It may be pertinent to recall that the Finance Minister Shri Venkataraman, had said by way of clarifications in response to the queries raised

during the Calling Attention on 2nd September, 1981, that:

'.....ordinarily the Prime Minister does not allow her name to be associated with any such trust or anything like that. Generally when people ask for such permission, she does not give. In this case, because they said that it is all for the purpose of doing a great deal of service—she did not agree to her name being put in—she only agreed to the objects. Thereafter, when her name was being used, she said. "Please take it away". And in deference to her wishes....'

'I am informed on very reliable authority that the Prime Minister did not inaugurate this.....'

One of the new points made out by a number of members is that the photograph as published in *Lok Rajya* a Government of Maharashtra publication dated 16th October, 1980 shows two documents being signed by the Prime Minister and not one as shown in some other photographs published in newspapers which had been enclosed by members with their earlier notices of breach of privilege against the Finance Minister. They also have drawn specific attention to the caption of the photograph as published in *Lok Rajya*, a Government of Maharashtra publication etc. that the Prime Minister was signing a document giving her consent to the Trust being named after her. They had also referred to the newspaper reports that the Prime Minister had consented to the Trust being named after her. The Minister of Finance to whom the matter was referred has furnished in reply a xerox copy of the second document signed by the Prime Minister as well as its original. The second document is in English and states:

'I am happy to associate myself with the Pratibha Pratishthan, Maharashtra'.

Even the second document relied on in support of the privilege motion does not contain the words 'Indira Gandhi Pratibha Pratishthan'.

Some Members have also asserted that the word 'Sahabhagi' in the Marathi document signed by the Prime Minister should be translated to mean to 'participate' or to be a 'co-partner'.

The English version of the document as now furnished by the Finance Minister clearly

indicates that she was only happy to associate herself with the Pratibha Pratishthan, Maharashtra and 'sahabaghi' in this context could appropriately be interpreted to mean 'association' rather than being a 'co-partner'.

It has also been stated by a member that the fact that Prime Minister desired at a later stage that her name might be dropped from the name of the Trust meant that she was aware that the Trust was really named after her. In this connection, the Minister of Finance has stated:

'It has never been stated by me that the Trust was not being called Indira Gandhi Pratibha Pratishthan. What in fact has been stated by me is that the Prime Minister did not give her consent to the use of her name in the name of the Trust. I have also never stated that she did not become aware of this fact. In fact I have myself stated:

"thereafter when her name was used she said please take it away".

As far as mention of Indira Gandhi Pratibha Pratishthan in the captions published in the newspapers or in Maharashtra Government publications or even in letters written by some officials of the Maharashtra Government or office bearers of the Trust or accounts maintained with Banks or issue of cheques or submissions made to authorities etc. are concerned, these cannot be taken as conclusive evidence of the allegation that the Prime Minister agreed to the Trust being called Indira Gandhi Pratibha Pratishthan. In the absence of any direct evidence of a document signed by the Prime Minister and within the knowledge of the Finance Minister on 2 September, 1981 when he made the observations in the House, the charge that the Finance Minister has deliberately misled the House, cannot be sustained.

No positive evidence has also been produced by the members in support of their assertion that the Prime Minister had inaugurated the Trust. In fact, there could be no question of its being inaugurated on 11 October, 1980 as the deed concerning the Trust was registered only on 18 November, 1980. The Chief Minister of Maharashtra has clearly stated in his letter of 5 September, 1981 to the Finance Minister that 'the Prime Minister did not inaugurate the Maharashtra Pratibha Pratishthan.'

As I said, the question that I am called upon to decide as a Presiding Officer, is whether Shri R. Venkataraman, Finance Minister had deliberately

misled the House while replying to the clarificatory questions on 2 September 1981 to this my reply remains the same, namely, that I am convinced that he did not mislead the House, far less deliberately.

I am therefore unable to give my consent to the Notices under Rule 222 against the Finance Minister, Shri Venkataraman.

I have also received notices of question of privilege from Sarvashri Jyotirmoy Bosu, George Fernandes, Harikesh Bahadur, Niren Ghosh, Rashid Masood, Ram Vilas Paswan and Jaipal Singh Kashyap against Shri Arun Shourie, Executive Editor of the *Indian Express* for a report published under his name in the *Indian Express* dated 4 and 12 September, 1981, respectively containing reflections on Shri R. Venkataraman in respect of certain remarks made by him in the House on 2 September, 1981.

I have considered these notices in the light of precedents both in India and in the House of Commons, U.K. It would be pertinent to recall the observations of the Committee of Privileges in the *Daily Mail* case of 1948 of House of Commons, U.K. and the cases of Shri M.O. Mathai and *Times of India* in our own House where the Committee of Privileges observed that it is not consistent with the dignity of the House to take notice of every case which may technically appear to constitute a breach of privilege.

Having regard to these precedents and the facts of the case I think that it is hardly a matter which should attract the attention of the House.

I do not therefore, give my consent to this matter also being raised under Rule 222.

On Similar grounds I disallow notices of question of privilege given by Shri Harikesh Bahadur, Shri Somnath Chatterjee, Shri K.P. Unnikrishnan and Shri Ram Vilas Paswan against Shri Krishan Kant for allegedly casting aspersions on Parliament in a Press statement published in newspapers on 14 September, 1981.'

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LOK SABHA
(1983)

Point of privilege

Alleged making of wrong and misleading statements in the House by two Ministers in regard to a Note stated to have been sent by the Chief Election Commissioner to Government after the first round of poll in Assam for postponing the elections.

Facts of the case and ruling by the Speaker

On 24th March, 1983, the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

"On 15 and 16 March, 1983, Shri Atal Bihari Vajpayee gave notices of breach of privilege under rule 222 against the Minister of Home Affairs and Minister of Law, Justice and Company Affairs and by implication against the Chief Election Commissioner. On 16 March, 1983, Shri Vajpayee also forwarded to me a copy of the note which he claimed was sent to the Government of India by the Chief Election Commissioner after the first round of poll in Assam and sought my permission for laying a copy of the note on the Table.

Shri Atal Bihari Vajpayee in his notice date 15 March, 1983, of breach of Privilege and contempt of the House stated¹ *inter alia*:

'असम के सम्बन्ध में लोक सभा में जो वाद-विवाद होने वाला था उसकी तैयारी के सिलसिले में जब मैंने समाचार-पत्रों में यह पढ़ा कि मुख्य चुनाव आयुक्त ने असम में 14 फरवरी के मतदान के बाद सरकार को यह सलाह दी थी कि आगे का मतदान टाल दिया जाये, मैंने मुख्य चुनाव आयुक्त से व्यक्तिगत रूप से सम्पर्क स्थापित किया था कि उसके पत्र के बारे में जो खबर छपी है वह सही है? मुख्य चुनाव आयुक्त ने इसका स्वीकारात्मक उत्तर दिया।

दिनांक 14 मार्च को सदन में असम की स्थिति पर हुई बहस के दौरान पहले गृह मंत्री और बाद में कानून मंत्री ने इस बात का खंडन किया कि मुख्य चुनाव आयुक्त ने असम के बारे में उन्हें कोई सुझाव मिला है। उन्होंने यह भी कहा कि उन्हें मुख्य चुनाव आयुक्त से कोई पत्र प्राप्त नहीं हुआ।'

When the Minister of Home Affairs, Shri P.C. Sethi was making the statement on Assam at the

beginning of the discussion of Assam, Shri Vajpayee had intervened and asked²:—

'श्री अटल बिहारी वाजपेयी: गृह मंत्री जी ने बड़ा लम्बा बयान दिया है मगर इस बयान में चीफ इलेक्शन कमिशनर द्वारा लिखे गए उस पत्र का कोई जिक्र नहीं है, जिसमें चीफ इलेक्शन कमिशनर ने सुझाव दिया था 17 तारीख को कि 14 तारीख का पोलिंग हो गया है, कांस्टीच्यूशनल आबलीगेशन अब पूर्ण कर लिया गया है। अब चुनाव टाले जा सकते हैं। चुनाव टाले जाने चाहिए। सभापति महोदय, आपको याद होगा कि उस दिन भी हमने मांग की थी कि उस पत्र को सदन की टेबल पर रखा जाना चाहिए। सरकार अपनी जिम्मेदारी इलेक्शन कमीशन पर फेंक रही है और इलेक्शन कमीशन सरकार को दोषी ठहरा रहा है। यह सदन कैसे फैसला करेगा कि कौन सही है। क्या मंत्री महोदय जानते हैं कि उनके पत्र मिला है?

On 18th March, 1983, Shri Vajpayee sent in continuation of his earlier notice under rule 222, a communication clarifying his point of view.

Shri Harikesh Bahadur gave on 16th March, 1983, a notice under rule 222 of breach of privilege against the Minister of Home Affairs and the Minister of Law, Justice and Company Affairs on the ground that they have a wrong statement that they did not receive any communication from the Election Commission regarding postponement of elections in Assam.

I have tried to carefully sift the material contained in the notice under rule 222 given by Shri Atal Bihari Vajpayee, the clarification and other information furnished by him in relation to those notices, his request for permission for the laying of a particular document on the Table of the House, the notice given by Shri Harikesh Bahadur and the material furnished by the Home Minister and the Law Minister.

I have no doubt the members of the House would like to know about the existence and identity of the

¹English translation—

"When I was preparing for discussion to be held in Lok Sabha regarding Assam, I read news item in the newspapers that after the elections on 14 February in Assam, the Chief Election Commissioner had advised the Government to postpone the next phase of elections. I had contacted, the Chief election Commissioner personally to enquire whether the report published in the newspapers was correct. The Chief Election Commissioner had replied in the affirmative.

During the discussion held in the House on 14 March on Assam situation, first the Home Minister and later the Law Minister denied that they had received any suggestion from the Chief Election Commissioner about Assam. They also said that they had not received any letter from the Chief Election Commissioner."

²English translation—

"Shri Atal Bihari Vajpayee: The Hon. Home Minister has made a long statement, but no mention has been made therein of the Chief Election Commissioner's letter in which the Chief Election Commissioner has suggested on the 17th that since polling has been held on the 14th, the Constitutional obligation has been met. The election could now be postponed. Elections should be postponed. Mr. Chairman, Sir, you will recollect that on that day also we had demanded that this letter should be laid on the Table of the House. The Government are shifting their responsibility on the Election Commission and the Election Commission is blaming the Government. How would this House decide as to who is right. Does the Hon. Minister know that he has received the letter?"

document which the Home Minister and the Law Minister have been alleged to have failed to mention in the course of the debate and which has led to the various notices by Shri Vajpayee and the notice by Shri Harikesh Bahadur. This is a note entitled 'The General Elections to the Legislative Assembly of Assam—1983'. This note was prepared in the Election Commission and it is the same as the one for which Shri Vajpayee has sought my permission to lay on the Table of the House.

This note was first furnished by the Election Commission to the Ministry of Law, Legislative Department on 19 February, 1983, under a covering letter of the same date. It is clear from the contents of the covering letter and information made available by the Law Minister that the note was sent to the Legislative Department by the Election Commission not on its own volition but in compliance with a specific request made by that Department on 27 January, 1983 and a reminder sent by that Department on 14 February, 1983, for material for preparing a statement for the use of the Law Minister for dealing with Calling Attention notices in the Rajya Sabha.

I find from the material furnished by the Home Minister that a copy of the same note was sent on 21 February, 1983, to the Home Ministry by the Election Commission as an aid for the use of the Home Minister in connection with his proposed statement on Assam in Parliament.

It may be that if the Legislative Department had not on its own sought information from the Election Commission, and followed it up by a reminder the Election Commission might not perhaps have compiled this note. A careful perusal of this note leads one to the logical conclusion that far from containing any suggestion for postponement of the poll in Assam after the first round of poll on 14 February, 1983, it contains passages which indicate that the Commission itself considered it improper to cancel *in toto* elections on the basis of the views of one of the Parties and without taking into account the views of certain Parties which had representation in the dissolved Legislative Assembly of Assam and which were in favour of elections. The note also contains a passage indicating that the Commission was continuing with the process of election of account of the assurances given by the State Government at various stages that they were in a position to carry out the process of election. The note also contains a statement to the effect that Commission would be referring some of the important complex

constitutional issues to the Attorney General of India for his considered advice, which would show that the references had not been made on or before 19 February, 1983. As a matter of fact, from the information furnished by the Law Minister, I find that the Commission sent the first communication for making reference to the Attorney General only on 21 February, 1983 *i.e.* after the third round of poll in Assam was over on 20 February, 1983.

Since there has been speculation about the contents and implications of this note, I hereby accord permission under Direction 117 to Shri Atal Bihari Vajpayee to lay this note of the Election Commission on the Table of the House.

Let the time when and the manner in which and the purpose for which the note was sent to the Government and the contents of the note speak for themselves. In any case it is clear that the note does not afford any factual basis for the inferences that the Election Commission made any suggestion that the poll in Assam be postponed after the first round on 14 February, 1983.

I am also unable to accept, Shri Vajpayee's contention in his second letter of 18 March, 1983 that the central issue is not that the note sent by the Election Commission on 19 February contained any suggestion or hint for postponing the next round of poll in Assam, for this was the very point which he had raised in the House pointedly.

According to well established parliamentary practices and procedures and precedents a breach of privilege can arise only when a Minister/member makes a false statement or an incorrect statement wilfully, deliberately and knowingly.

The facts as briefly recalled by me clearly indicate that the statements of the Minister of Home Affairs and the Minister of Law taken in the context of the specific queries by Shri Vajpayee in the House on 14 March, 1983, were factually not incorrect and there is thus no question of breach of privilege or contempt of the House.

I therefore do not accord consent under rule 222 to Shri Vajpayee and Shri Harikesh Bahadur to raise this matter as a question of breach of privilege or contempt of the House.

I do wish that greater care had been taken to ascertain the facts in their entirety before the issue was taken up on the floor of the House. At the same time I also wish that greater restraint was shown by the person concerned and the high office of the

Chief Election Commissioner who has his own statutory obligations and responsibilities under the Constitution is not brought in unnecessarily.

Truth should prevail."

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LOK SABHA

(1985)

Point of privilege

Alleged misleading of the House by the Prime Minister

Facts of the case and ruling by the Speaker

On 23rd July, 1985 immediately after the Question Hour several members sought clarification from the Prime Minister (Shri Rajiv Gandhi) regarding certain remarks made by him about Emergency in a Press Conference on 7th July, 1985. Clarifying the position the Prime Minister stated *inter alia* as follows:—

"I was asked a very specific question. One, whether I thought the Emergency when it was proclaimed in 1975 it was correct? I said 'Yes'. I think it is correct and I stand by that statement....The second part of the question I was asked was that 'if conditions similar to' 75 were to repeat themselves...would I do the same thing? My answer was that it was highly unlikely that any given set of conditions can repeat themselves. But...if conditions do occur that require emergency to be proclaimed I will not hesitate to proclaim emergency."

2. On 24th July, 1985, Prof. Madhu Dandavate, Sarvashri S. Jaipal Reddy and Indrajit Gupta, members, gave separate notices of a question of privilege against the Prime Minister for allegedly misleading the House on 23rd July, 1985. The members stated in their notices that the transcript of the Press interview was not in conformity with the statement made in the House by the Prime Minister on 23 July, 1985. The members contended that the House was deliberately misled by the Prime Minister and this amounted to a breach of privilege of the House.

3. On 24th July, 1985, when the members sought to raise the matter in the House the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

"I have carefully gone through the notices given by Prof. Madhu Dandavate, Shri S. Jaipal Reddy and Shri Indrajit Gupta together with the transcript of the Prime Minister's Press Conference and the clarification given by him in the House yesterday. I feel that after the

clarifications given by the Prime Minister, there is hardly anything substantial which may need further comment. The matter may now be closed."

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LOK SABHA

(1987)

Points of privilege

Alleged misleading of the House by the Prime Minister

Facts of the case and ruling by the Speaker

On 19th March, 1987, the Speaker (Dr. B.R. Jakhar) observed as follows:

"On 13 March, 1987, Prof. Madhu Dandavate, Sarvashri Dinesh Goswami and C. Madhav Reddy gave notices of question of privilege against the Prime Minister for allegedly misleading the House on 2 March, 1987 during discussion on the motion of thanks on the President's Address. Prof. Dandavate also enclosed the text of what was allegedly a letter from the President to the Prime Minister. It was published in the *Indian Express* dated 13 March, 1987. I refused my consent to the matter being raised in the House as I found that it was not in order as per rules in this regard. The same day, when, after the Question Hour, the Members sought to raise the matter in the House, I ruled that the President's name could not be dragged in any way on the floor of the House for influencing any debate.

Again, on 18 March, I received other notices from Sarvashri Saifuddin Chowdhury, Dinesh Goswami and C. Madhav Reddy seeking my permission to raise the matter in the House. I have since further examined the matter very carefully in all its aspects and in accordance with the constitutional provisions, Rules of Procedure, precedents and earlier rulings. All these reinforce the correctness of the ruling given by me on 13 March, 1987.

A member can raise a question of privilege on the floor of the House 'with the consent of the Speaker' (Rule 222). The Speaker 'shall call the member concerned' only if he has accorded his consent and holds that the matter 'proposed to be discussed in order' (Rule 225). Thus, unless specifically allowed and called by the Speaker, a member cannot raise any privilege issue on the

floor of the House. Mere giving of a notice of privilege motion does not entitle a member to raise it on the floor of the House. Also, Speaker's decision refusing consent to the raising of the matter cannot be questioned on the floor of the House. If a member is dissatisfied and wants to seek any clarification, he can at best see the Speaker in his chamber.

Both on 13 March and on 18 March I refused my consent to the matter given notice of being raised on the floor of the House as a privilege issue or otherwise as I found that I was not in order. So far as the Rules go, that should have ended the matter but since some members persisted in pressing the subject-matter of their notices, I gave my observations on the merits of the notices and ruled that the name of the President could not be allowed to be used in any manner to influence discussions on the floor of the House. This was strictly in accordance with the Rules inasmuch as Rule 352 (vi) expressly prohibited 'use of the President's name for the purpose of influencing the debate'. Since the whole matter centred round a letter alleged to have been written by the President, any discussion on the matter either by way of a privilege issue or otherwise was bound to bring in the name of the President and as such it could not be allowed.

Earlier, on 2 March, 1987, while speaking on the motion of thanks on the President's Address, Shri Amal Datta had raised the issue of the convention of the Prime Minister calling on the President and discussing matters of State with him. The Chair had at that time also immediately drawn attention *inter alia* to Rule 352(vi) and objected to President's name being used to influence the debate.

On Shri Datta alleging that Article 74 of the Constitution had been brought to a nullity, the Prime Minister had intervened to deny the allegation and stated that he and other Ministers had been meeting the President. The Prime Minister had further said:

'We like to keep the President above our politics and we will not involve the President in our daily politics and I would request the members to honour the institutions of this country and not drag them down into politics.'

While replying to Shri Datta the Chair had observed:

'I have already made it very very clear that you cannot, as per the rule, drag the office of the President. The Prime Minister has also made it very very clear.'

When on 9 March, 1987, Shri Madhu Dandavate sought to raise the question on the basis of the proceedings of the House on 2 March, I did not allow him and nothing was allowed to go on record because he did not have my permission to raise the issue on the floor of the House. I categorically ruled:

'Use of the President's name for the purpose of influencing the debate in any way whatsoever is not allowed.... even in the first place it was wrong and it should not have been done.... I am not going to allow any wrong to be repeated... I say that I do not approve of the mention of the President's name by anybody in this House....'

Thus the stand taken by the Chair on 2 March, 9 March, 13 March and 18 March was substantially the same and very consistent. On another occasion, as early as on 8 April, 1985, I had ruled that the name of the President could not be dragged in the debate. All the observations and the rulings from the Chair have been categorical to the effect that the President's name could not be used on the floor of the House in order to influence the debate....

Various notices received on the subject raise the question of the relationship between the President and his Ministers and that of the discharge of their constitutional functions. Under Article 53 of the Constitution, the executive power of the Union is vested in the President and all executive action is taken in his name. The executive power has to be exercised in accordance with the Constitution which *inter alia* ordains *vide* Article 74 that President has to discharge all his functions in accordance with the advice of the Council of Ministers. The Council of Ministers, under Article 75, has been made collectively responsible to Lok Sabha. Thus, for the exercise of all the executive power in the name of the President and for the discharge of all his functions, it is the Council of Ministers alone that is responsible to Lok Sabha.

The question whether any, and if so, what advice was tendered by Ministers to the President cannot be enquired into in any Court of Law (*vide* Article 74). The relationship between the President and his Council of Ministers is a matter entirely between them and cannot under any circumstances be a fit subject for discussion on the floor of the House.

It has been held by earlier Speakers that members cannot read even letters received by them from the President unless President's specific permission to do so has been obtained by them. Also, members are not allowed to refer to any private talks which they

may have had with the President. So far as any talks between the Prime Minister or the Council of Ministers and the President or any letters exchanged between them are concerned, they are entirely between them and not the concern of the House.

Also, such official correspondence and discussions at the highest level—between the President and his advisers (the Ministers)—are in their very nature, confidential, privileged and protected.

I may also add that Rule 352 (v) provides that conduct of persons in high authority cannot be discussed except on a substantive motion drawn in proper terms. Thus, in the case of Ministers, their conduct can be discussed only on a motion of censure or No Confidence. It should, however, be stressed that even during the discussion on a motion of censure or no confidence in the Ministers, the name of the President, the relationship between the President and the Prime Minister or the Council of Ministers including the advice tendered or received or correspondence, if any, exchanged between them cannot be allowed to be brought in to influence the debate.

In view of the express provisions of the Constitution, the rules, the precedents and the earlier rulings, I do not consider that any case has been made out requiring me to reconsider the matter. Accordingly, I reiterate my ruling and withhold my consent to the matter being raised as a question of privilege or otherwise. No member has my consent to raise this issue again on the floor of the House in any form.

The high institutions created by the Constitution including those of the President and the Council of Ministers with the Prime Minister at its head are embodiments of our national aspirations. I am absolutely clear in my mind that any debate on the floor of the House which brings in the name of the President into any controversy or which tends to discuss the relationship between the President and his Council of Ministers, must be avoided at all costs in the wider interests of the nation. We are still in the process of developing sound conventions and traditions. Let us not, in the heat of the moment, do something which might hamper this process.

While confirming my earlier rulings, I would, therefore, again appeal to all sections of the House to desist from making it a political or party issue to be debated or a matter for points to be scored against each other.

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LOK SABHA

(1987)

Point of privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Speaker

On 6th April, 1987, the Speaker (Dr. B.R. Jaxhar) observed as follows:

"Hon'ble members, I have received several notices of privilege under rule 222 as well as under Direction 115 in regard to the statements made by the Minister of State for Finance on the question of engaging the services of a foreign agency, namely, FAIR-FAX GROUP, of the United States. I have also received several notices under rules 184 and 193 demanding a discussion on the subject or/and on the statement made by the Prime Minister in the House on 3 April.

Earlier, in response to the notices received under rule 193 from Prof. Madhu Dandavate and Sarvashri Jaipal Reddy and Ram Bahadur Singh on 24 March, 1987, I allowed a discussion on the subject on 31 March, 1987 because I strongly felt that such a discussion could not be barred and Parliament was entitled to know the full facts in the possession of Government. In reply to the discussion, the Minister of State for Finance had clarified the position and had tried to answer the various points raised by members.

Subsequently, the newspapers published reports of an interview purported to have been given by the President of the Fairfax Group. On 3 April, 1987, Sarvashri Jaipal Reddy and E. Ayyapu Reddy gave notices under Direction 115 pointing out what, according to them, were the discrepancies in the Minister's statement read in conjunction with the aforesaid interview. I also received notices of privilege from Prof. Madhu Dandavate and Shri Madhav Reddy on the same subject. I referred all these notices to the Minister of State for Finance for comments. The Minister in his reply dated 3 April, 1987 pointed out that the only basis for the allegation was a news item published in a daily paper purporting to be a statement of a foreign national. The Minister has stated that whatever he had said in reply to the debate in the House was based on the information and on the records available with the Government and there was no attempt or intention on his part to conceal the facts or to mislead the House.

Every Minister is a member of Parliament, is part of Parliament and responsible to this House. Once he makes a statement on the floor of the House it is presumed and that it is made with full sense of responsibility and it is to be accepted as such unless incontrovertible evidence to the contrary is brought before the House. I find that in the present case the Minister's statement is sought to be controverted only on the basis of certain statements by certain individuals as published in the newspapers. In the absence of any authentic evidence, I have to rely on the Minister's statement on the floor of the House. There is nothing to prove that the Minister made an incorrect statement or one deliberately to mislead the House. As such, I rule out all notices of breach of privilege on the subject.

So far as notices under Direction 115 received from Sarvashri Jaipal Reddy and E. Ayyapu Reddy, are concerned, the Minister of State for Finance has reiterated in his letter of 6th April, 1987 that whatever he had said in the House on 31st March, 1987, was based on the information available with the Government in the Finance Ministry.

As members are aware, the Prime Minister made a statement in the House on 3rd April, 1987, announcing the appointment of a sitting Judge of the Supreme Court to go into the entire affair with a view to set all controversies at rest. After the Prime Minister's statement, several members stood up and wanted some clarifications. I pointed out that in the light of the specific provisions of rule 372, I could not allow any question to be raised. However, several members from both sides of the House continued to speak without my permission. I strongly deprecate the tendency on the part of the members to stand up in groups and impede the orderly conduct of business. This is most deplorable. In such a situation, the observations of the members cannot be recorded. While there is no question of expunction on my part of any portion of the members' speeches, except what is unparliamentary, I would only reiterate that in such situations, nothing that is spoken without my permission can form part of the record of the House. I take this opportunity once again to clarify this position and would seek members' cooperation in the matter.

After the Prime Minister's statement, I have received a notice of privilege under rule 222 from Shri Bhattam Sriramamurthy. I have also received notices under rule 184 from Shri Somnath Chatterjee and 25 other members seeking to discuss the issue.

Notices under rule 193 have also been received from Shri Amal Datta, Shri Madhav Reddy, Prof. Madhu Dandavate and nine other members.

The points raised by the members in these notices are:

- (a) By appointing a judge to inquire into the matter, a discussion on the subject in the House is intended to be barred; and
- (b) Instead of instituting an enquiry by a sitting Judge of the Supreme Court, a Parliamentary Committee be asked to go into the entire affair.

As I have already said and I reiterate, this House is fully entitled to discuss all matters of public importance involving ministerial responsibility to this House. I, therefore, find that notices under rules 184 and 193 for discussion on the Prime Minister's statement are both admissible. I leave it to the House to have a full discussion on the Prime Minister's statement either under rule 184 or under rule 193. As far as I am concerned, the discussion can be held rightway, if the House so desires. But before the discussion starts, if the Government desires to further clarify the statement made on Friday, they may do so."

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LOK SABHA

(1987)

Point of privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Speaker

On 21st April, 1987, the Speaker (Dr. B.R. Jakkhar) observed as follows:

"On 9th April, 1987, Prof. Madhu Dandavate gave notice of a question of privilege against Shri Brahm Dutt, Minister of State for Finance, for allegedly deliberately misleading the House while replying to the discussion on the question of engaging the Fairfax Group of the United States by the Ministry of Finance on 31st March, 1987. Prof. Dandavate had objected to the following statement made by the Minister of State for Finance:

'An allegation has been made that some cases had been withdrawn. In the history of this country, one case was withdrawn in 1979.... A person calling himself a newspaper proprietor who is also having some other business, had floated a bogus firm and the Income Tax

Officers had prosecuted that bogus firm. CBI had also filed a case of forgery against the firm. But what happened? He filed a petition before the Income Tax Settlement Commission and he was granted immunity by the Commission but the CBI said that the immunity could be granted in relation to tax evasion but not in relation to forgery. But it is our misfortune that you had appointed such a person as the Solicitor General—I am referring to 1979....During that period he gave this opinion that the immunity was in relation to Income Tax evasion as well as in relation to the criminal case of forgery.....'

Prof. Dandavate enclosed a copy each of two statements purported to have been issued by two former Solicitors General, namely Sarvashri Soli J. Sorabjee on 6th April, 1987 and S. N. Kacker on 7th April, 1987. Both are marked 'To whomsoever it may concern' and have been duly authenticated by Prof. Madhu Dandavate. Shri Sorabjee has categorically stated: 'I did not give any advice whatsoever of any kind in the above matter'. Shri Kacker too has stated: 'It is not correct at all that I ever gave any opinion recommending any immunity from the charge of forgery in connection with income tax settlement or any other matter'.

On the strength of the above affirmations, Prof. Dandavate has contended that 'Shri Brahm Dutt, the Minister of State for Finance made baseless allegations against the Solicitors General during the tenure of Governments headed by Shri Morarji Desai and Choudhary Charan Singh'.

I called for the comments of the Minister of State for Finance in the matter. He has stated *inter alia* as follows:

'Shri Dandavate has tried to prove that I was wrong with the facts. He has based his arguments on the copies of two letters from Shri S. Sorabjee and from Shri S.N. Kacker who were holding the post of Solicitor General in 1979.'

It is apparent from my reply that I had referred to one person as Solicitor General.....

On 7.4.1975, I.T.O. Bombay made a complaint against Shri R.N. Goenka, some of his firms and some other individuals. On the basis of this complaint, C.B.I. registered a case on 21st April, 1975 u/s 120-B, r/w 420, 466, 468, 471, 477-A, I.P.C. and 420 r/w section 5(II) I.P.C. and 420, 468, 466, 471, 477-A IPC and Section 5(2) r/w section 5(I) (D)

of the P.C. Act. It was alleged that Shri Goenka and his firm entered into a criminal conspiracy around April, 1971 and floated a firm under the name and style of 'Express Traders', by antedating partnership deed and committing forgery in the records of Income-Tax Departments and the Stamps Office of Maharashtra to indicate that the firm came into existence on 1.10.1970. The motive was that this firm suffered a loss of about Rs. 85,62,665/- and the loss was sought to be set-off against the benefit made by other firms of Shri R.N. Goenka.

Before filing the complaint by the C.B.I., I.T.O. of Sector 22 (Central Range-2 Bombay) had filed a complaint in the court of Additional Chief Metropolitan Magistrate-XIX Bombay against Shri R.N. Goenka and others u/s 277, 278 Income Tax Act (case No. 140/S of 1974).

One of the accused, a firm M/s Express Traders, filed a petition before the Settlement Commission for the settlement of the Income Tax cases. In this they requested immunities from the Settlement Commission u/s 245-H of the I.T. Act, 1961. While the case was posted for appearance of the accused, the Settlement Commission issued orders dated 3.12.1977 staying the proceedings going on in the court of Additional Chief Metropolitan Magistrate, Bombay in both the C.B.I. charge-sheet and the complaint filed by the I.T.O. Settlement Commission on 27.2.1978 accepted the offer of settlement and granted immunity to Shri Goenka and some others u/s 245-H of I.T. Act.

The order of Settlement Commission was examined in consultation with the legal advisers of C.B.I. They were of the opinion that the Commission was not competent to grant immunity in the C.B.I. case.

On 9.5.1978, opinion of the Ministry of Law was sought which was sent to the then Solicitor General of India, Shri S.N. Kacker, on 8.9.1978.

Shri Kacker gave his opinion in two letters, first dated 6th October, 1978 and second dated 12th December, 1978. Shri Kacker held that the Commission was competent to grant the immunity in respect of Income-Tax as well as all other Central Acts including I.P.C. and no further action can be taken in respect of those matters in any court of law.

On the opinion of the Solicitor General, the Ministry of Law advised D.P. & T. to concede the defence and not to agitate into the matter.

C.B.I. had to concede and the Additional C.M.M. discharged the accused on 7th March, 1979'.

The Minister of State for Finance has enclosed authenticated copies of Shri Kacker's opinion dated 6th October and 12th December, 1978. I would like to quote from the opinions given by Shri S.N. Kacker. In his opinion dated 6th October, 1978, Shri Kacker had stated *inter alia* as follows:

'I do not agree with the objections taken by the CBI that no immunity under Section 245-H can be granted in respect of prosecutions which have been initiated before proceedings under Chapter XIXA had been commenced. I am also of the view that paragraph 9.9, when properly construed, purported to grant a complete immunity in respect of all prosecutions whether under Income Tax Act or under Indian Penal Code or under any other Central law for the time being in force...'

In his opinion dated 12th December, 1978, Shri Kacker further stated as under:

'The direction or order granting immunity made by the Settlement Commission will apply to the C.B.I. cases also.'

On a perusal of the records produced by the Minister, particularly the detailed and categorical answers given by Shri S.N. Kacker on 6th October, 1978 and 12th December, 1978, I find that the statement purported to have been issued by Shri Kacker on 7th April, 1987, and relied upon by Prof. Madhu Dandavate appears to contradict the opinion given by Shri Kacker in October and December, 1978 on a reference made to him in this regard. Reference to the statement purported to have been issued by Shri Sorabjee on 6th April, 1987, is not relevant as his opinion was never sought by the Government in the matter.

In view of the above, I find that the notice of question of privilege lacks factual basis. In this connection, I may add that certain other allegations made by Prof. Madhu Dandavate during his speech in the House had been categorically refuted by the Minister in his reply. In the circumstances, I consider that the member should have checked up the facts carefully by writing to the Minister, if necessary, rather than seeking to raise the issue as one of privilege on the basis of newspaper reports.

While ruling out the question of privilege, I

would urge upon the members to refrain from raising privilege issues unless they are sure of the facts."

2. Immediately after the ruling, several members sought to discuss the Speaker's ruling in the House. The Speaker thereupon observed as follows:

"The Speaker's rulings, as already stated, cannot be questioned except on a substantive motion. A member who protests against the ruling of the Speaker commits contempt of the House and the Speaker. The Speaker's decision is equally binding, whether given in the House or on a departmental file. He is not bound to give reasons for his decisions. Members cannot criticise directly or indirectly, inside or outside the House, any ruling given, opinion expressed or statement made by the Speaker."

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LOK SABHA

(1987)

Point of privilege

Alleged misleading of the House by a member

Facts of the case and ruling by the Speaker

On 27th April, 1987, the Speaker (Dr. B. R. Jakhar) observed as follows:

"On 15th April, 1987 Shri H.N. Nanje Gowda, Smt. B. Basavarajewri and Dr. G.S. Rajhans gave a joint notice of question of privilege against Prof. Madhu Dandavate for allegedly wilfully misleading the House on 17th November, 1983, while participating in the discussion on 'the need for Electoral Reforms with special reference to Defections' under Rule 193.

In their notice, the members have stated *inter alia* that 'Prof. Dandavate during the course of his talk told the House when he referred to the so called "Moily tape" episode, that money was sent from Delhi and also that the Karnataka Chief Minister was in possession of the finger prints on the bundles of money'.

Referring to the above statement, the members have further stated: 'Now the Desai Commission which went into the inquiry has held that what was told in the Lok Sabha by Prof. Dandavate is not correct'. The members have alleged that 'Prof. Dandavate just to

create an impression in the public, wilfully and purposely misled the House on 17.11.83'.

I have gone through the Report submitted by the Desai Commission. In para 8 of the Report, it has been stated *inter alia* as follows :

'...It was stated on the floor of Parliament by Prof. Madhu Dandavate that finger impression on the bundles of Rs. 2 lakhs currency notes has been taken and they were in possession of the Chief Minister of Karnataka....Hon'ble Chief Minister did not have the finger prints alleged to have been taken from the currency notes as is clear from the letter received from the Chief Minister's Secretariat. Mr. Byre Gowda also has admitted that the currency notes were handled by many persons and it was impossible to get finger prints and no finger prints have been taken....'.

As regards the amount having been drawn from the Sadar Bazar Branch of the State Bank of India, Delhi, the finding of the Commission has been given on page 43 of the Report, which reads as follows :

'According to Mr. C. Byre Gowda, as one of the bundles of currency notes contained account slip of the State Bank of India, Sadar Bazar, Delhi, he thought that the amount had come from Delhi. But the Manager of the State Bank of India, Sadar Bazar, Delhi, has in his letter dated 15.4.1986 stated that he is unable to state that the said bundle was issued from their Bank to any of the account holders on 14.9.1983 or subsequently. He has also written to say that the Cong. (I) Party and the Janata Party have no accounts in that Bank. Therefore, it is not possible to trace the source from which the amount (M.O.I.) came to Bangalore'.

I called for the comments of Prof. Madhu Dandavate in the matter. He has *inter alia* stated as follows:

'In my observations in the Lok Sabha on 17th November, 1983 I had relied on the information given to me by my colleagues in Karnataka. However, Desai Commission appointed by the Karnataka Government has clearly stated that there was no evidence of the Chief Minister processing these finger impressions'.

While offering his regrets, Prof. Dandavate has stated that 'under these circumstances in the highest Parliamentary tradition I unhesitatingly offer my regrets.....for my observations in the House on 17th

November, 1983 and assure you that I had no intention to mislead the House'.

I accept the regrets expressed by Prof. Dandavate and in view thereof, I withhold my consent to the raising of the matter in the House as a question of privilege."

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LOK SABHA

(1987)

Point of privilege

Alleged misleading statement made by a member in the House.

Facts of the case and action taken by the House

On 19th August, 1987, Shri Shantaram Naik, a member gave notice of a question of privilege against Shri Amal Datta, another member, for allegedly making a misleading statement in the House on 19th August, 1987. Shri Naik had stated in his notice *inter alia* as follows:

"Today, Mr. Amal Datta, a member of this House showed a booklet to the Speaker in the House, during Question hour and said that it is Mr. Poojari's publication. Shri Janardhana Poojari, Minister of State for Finance who was replying to the question of Mr. Amal Datta, on credit camps, denied that what has been shown by Mr. Datta is his publication. Subsequently Mr. Dandavate clarified the position to say that the booklet was published by the Janata Party".

Shri Naik contended that Shri Datta had thus "made a false statement in the House thereby committing a breach of privilege of the House".

2. On 20th August, 1987, when Shri Shantaram Naik sought to raise the matter in the House, the Speaker (Dr. B.R. Jakhar) observed as follows:

"Mr. Naik, I have your privilege motion with me. I have gone through it. I warned Mr. Amal Datta yesterday that if he has said it, then he will have to apologise to the House. I have found out that it is on record. When he comes here, he will have to apologise. He agreed with me."

3. On 21st August, 1987, Shri Amal Datta stated as follows:

"An observation was made by me on 19.8.1987 regarding a publication being Mr. Poojari's own. On checking I found that it is not so. I express my regret for the same."

The matter was, thereafter, treated as closed.

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LOK SABHA

(1987)

Point of privilege

Alleged misleading of the House by a member of Rajya Sabha and a former Minister

Facts of the case and ruling by the Speaker

On 17th August, 1987, the Speaker (Dr. B.R. Jakhar) observed as follows:

"On 11th May, 1987, Shri Somnath Chatterjee, member of Parliament, gave notice of a question of privilege against Shri Arun Singh, the then Minister of State in the Department of Defence Research and Development in the Ministry of Defence for allegedly deliberately and knowingly misleading the House, while making a statement in Lok Sabha on 15th April, 1987, on the 'inquiry ordered by the former Minister of Defence into payment of commission by the supplier to an Indian Agent in a defence deal'. The Minister had *inter alia* stated as follows:—

'On assuming office, the Prime Minister reiterated the existing instructions that the Department of Defence should not deal with any non-governmental agent of a foreign supplier in respect of any commercial negotiations. The Prime Minister also directed that foreign governments and suppliers should be told unequivocally about the decision. This policy directive has been enforced rigorously by the Department of Defence with satisfactory results'.

Referring to a news report which appeared in the *Statesman* of 9th May, 1987, under the caption 'Arms and the man in the middle', Shri Chatterjee stated that it appeared from the said Report that 'in the matter of several defence deals, non-governmental agent(s) had important or active role to play in respect of commercial negotiations. In this connection, the role of Messers Eureka Sales Corporation, New Delhi, has been specifically mentioned together with particulars of the correspondence exchanged between the Defence Department or Defence officers and the said Eureka Sales Corporation. The report also quotes extensively from such correspondence which clearly establishes beyond doubt that the said non-governmental concerned had, in fact, acted as an agent or a middleman'.

Shri Chatterjee had enclosed a copy of the said report and contended that 'the statement made by Shri Arun Singh in Lok Sabha was neither candid nor factually correct and his assertion that the policy directive allegedly given by the Prime Minister "had been enforced rigorously by the Department of Defence", was contrary to the real state of affairs. In the circumstances, there is strong *prima facie* evidence, if not proof, that with a view to mislead the Hon. House and the members, the Minister concerned had knowingly taken recourse to prevarication and untruth and is thus guilty of deliberate breach of privilege of the Hon. House and the members....'.

I referred the matter to Shri Arun Singh for his comments. In his reply dated 2nd June, 1987 Shri Arun Singh stated *inter alia* that the seven letters quoted in the news report, 'are (implicity) alleged to depict a situation contrary to what had been stated by me in the Lok Sabha on 15th April, 1987...It will be clear that what I had stated was (a) that the Department of Defence should not deal with such agents and (b) the prohibition was in respect of commercial negotiations....none of the seven letters referred to in the Press Report originated from the Department of Defence. Further, none of them related to any commercial negotiations'. A copy of Shri Arun Singh's, reply was handed over to Shri Somnath Chatterjee.

Commenting on Shri Arun Singh's reply, Shri Chatterjee has, in his letter dated 12th August, 1987, addressed to me, stated as follows:—

'In his letter, Shri Singh has himself referred to said seven different letters/communications and has not challenged their authenticity and has given his reply accepting the genuineness of the same...It is clear that Shri Singh is trying to make a distinction between Department of Defence simpliciter and defence establishments/organisations and apparently between commercial negotiations and commercial transactions. There can not be any difference between commercial negotiations and commercial transactions...Further, it is amazing that the letters and correspondence from high defence officials of the Air Head Quarters and other important Defence Establishments are treated to be totally divorced from the Department of Defence. Is it the contention of Mr. Arun Singh that important Defence Establishments and organisations were having

deals with middlemen, and that there was an embargo only on Department of Defence as has been emphasised by Shri Singh in his letter...Are not important military establishments/organisations under the control of the Department of Defence? They cannot be independent authorities under the control of the Defence Department'.

Shri Chatterjee has contended that 'it is abundantly clear that there was a deliberate attempt to mislead the House and the Hon. members and it seems to me that the breach of privilege on the part of Shri Arun Singh is almost self-confessed'.

I have gone into the matter carefully. In an earlier case of this nature in 1979, the then Speaker, Lok Sabha, while giving his ruling on a question of privilege regarding an alleged misleading statement made by a former Minister of State in the Department of Revenue and Banking and a member of Rajya Sabha, regarding voluntary disclosures of income and wealth in the context of recommendations made by Public Accounts Committee in their 123rd Report (Sixth Lok Sabha), referred the matter to the Chairman of Rajya Sabha in accordance with the procedure laid down in the Report of the Joint Sitting of Committees of Privileges of Lok Sabha and Rajya Sabha.

As Hon. members are aware, Shri Arun Singh is a member of Rajya Sabha. The question of privilege can, therefore, be dealt with only by that House in accordance with the procedure laid down in the above Report which was adopted by the Lok Sabha and Rajya Sabha on 2nd and 6th December, 1954 respectively. I, therefore, propose to refer the matter to the Deputy Chairman, Rajya Sabha, for such action as she may consider necessary and proper.

2. On the same day, the Speaker addressed a letter to the Deputy Chairman, Rajya Sabha, enclosing therewith copies of notices of question of privilege by Shri Chatterjee, comments of the Minister and the announcement made by Speaker in Lok Sabha on 17th August, 1987, for disposal of the matter in accordance with the procedure laid down in the Report of the Joint Sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha.

3. On 24th August, 1987, the Deputy Chairman, Rajya Sabha (Shrimati Pratibha Patil) informed the House as follows:—

"I have to inform members that I have received the following communication dated the 17th August, 1987, from the Speaker, Lok Sabha:—

'On 11th May, 1987, Shri Somnath Chatterjee, MP, gave notice of a question of privilege against Shri Arun Singh, former Minister of State in the Department of Defence Research and Development in the Ministry of Defence for allegedly deliberately and knowingly misleading the House while making a statement in Lok Sabha on 15th April, 1987, on the "inquiry ordered by the former Minister of Defence into payment of Commission by the supplier to an Indian agent in a defence deal". A copy of the said statement is enclosed'.

The matter was referred to Shri Arun Singh for his comments. A copy of his reply dated 2nd June, 1987, was handed over to Shri Somnath Chatterjee. Commenting upon Shri Arun Singh's reply, the Member has, in his letter dated 12th August, 1987, addressed to me, raised certain issues which need to be clarified by the former. As Shri Arun Singh is a member of your House, I am enclosing a copy of the said notice for disposal in accordance with the procedure laid down in the Report of the Joint Sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha, adopted by them on 2nd and 6th December, 1954, respectively. I also enclose a copy of the announcement made by me in the Lok Sabha on 17th August, 1987 in this regard.

According to the procedure laid down in the Report of the Joint Sitting of Committees of Privileges of the Lok Sabha and the Rajya Sabha by our House on 6th December, 1954, when a question of breach of privilege is raised in any House in which a Member of the other House is involved, the Presiding Officer shall refer the case to the Presiding Officer of the other House. Upon the case being so referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a case of breach of privilege of that House or of a Member thereof.

Accordingly, I will examine the matter contained in the Speaker's communication."

4. On 25th March, 1988, the Chairman, Rajya Sabha. (Dr. Shanker Dayal Sharma) while disallowing the question of privilege ruled *inter alia* as follows:—

"Hon'ble members may recall that on August 24, 1987, the Deputy Chairman had informed the House about a communication received from the Speaker, Lok Sabha, referring a question of breach of privilege given notice of by Shri Somnath Chatterjee, member, Lok Sabha against Shri Arun Singh, former Minister of State in the Department of Defence Research and Development in the Ministry of Defence and now a member of Rajya Sabha for allegedly deliberately and knowingly misleading the House while making a statement in Lok Sabha on 15th April, 1987 on the 'inquiry ordered by the former Minister of Defence into payment of commission by the supplier to an Indian agent in a defence deal'. She had then said that the matter would be examined in accordance with the established procedure which is that when a question of breach of privilege is raised in any House in which a member of the other House is involved, then on the case being referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a breach of privilege of that House.

The circumstances which gave rise to this reference to us may be summed up briefly:

On 15th April, 1987, Shri Arun Singh, the then Minister of State in the Department of Defence Research and Development made a statement in the Lok Sabha regarding inquiry into payment of Commission by the supplier to an Indian agent in a defence deal, in his statement, he *inter alia* stated:—

'On assuming office, the Prime Minister reiterated the existing instructions that the Department of Defence should not deal with any non-Governmental agent of a foreign supplier in respect of any commercial negotiations. The Prime Minister also directed that foreign Governments and suppliers he told unequivocally about the decision. This policy directive has been enforced rigorously by the Department of Defence with satisfactory results.'

On the basis of a news report appearing in The Statesman of 9th May, 1987, wherein were mentioned certain deals involving middlemen, Shri Somnath Chatterjee, member, Lok Sabha questioned the Minister's statements and charged him with intentionally misleading the House by supplying incorrect information.

In his comments to the Speaker, Lok Sabha the Minister denied the member's charge by arguing that the letters cited in the newspaper report did not originate from the Department of Defence and prohibition on dealing with non-Governmental agents was only in respect of commercial negotiations.

Shri Somnath Chatterjee, in his reaction to the comments of the Minister, impugned the Minister's version and contended that the Minister's attempt to draw a distinction between Defence Department and Defence establishments and commercial negotiations and transactions was untenable.

By the time the Speaker could decide the case, Shri Arun Singh ceased to be a Minister and remained only a member of the Rajya Sabha. Accordingly the Speaker referred Shri Somnath Chatterjee's complaint and other relevant papers to us. Thereafter, the matter was again referred to Shri Arun Singh for comments on Shri Somnath Chatterjee's second letter.

Shri Arun Singh, in his comments, has reiterated his initial stand by drawing a distinction between commercial negotiations and commercial transactions on the one hand and defence department and defence establishments on the other. The defence establishments, during the technical evaluation stage, deal with representatives of the principal companies, whereas it is the defence department or ministry which comes into the picture and ensures exclusion of agents at the negotiation stage. Shri Arun Singh also stated that he made this position clear not only in the Lok Sabha on April 16, 1987, but also in the Rajya Sabha on April 20, 1987 wherein he had stated:

'The Government will not transact business with the supplier. The supplier may be a company and the supplier may be a Government....Similarly in the Defence business you have buyers, sellers and pushers except that the agents are called pushers...Therefore, if anybody says or lays a claim to the theory that a Government or a Minister can categorically remove from the surface of this earth all such people, then I am afraid that that claim has no relationship to fact. Therefore, what must be done is to find a method of how to control it.'

I have carefully gone through all the papers including the relevant statements of Shri Arun Singh in the Lok Sabha and the Rajya Sabha connected with the issue. It appears to me that Shri Arun Singh had consistently treated commercial negotiations and commercial transactions as distinct propositions and defence establishments and defence ministry as distinct entities.

Considering Shri Arun Singh's explanation in the context of the debates and his statements in both Houses of Parliament, I am of the opinion that Shri Arun Singh has not made any statement which could be construed as deliberately misleading the Lok Sabha and committing a breach of privilege of that House. I, therefore, feel that the matter need not be pursued further. I am informing the Hon'ble Speaker, Lok Sabha, accordingly and am also forwarding to him the subsequent comments received by me from Shri Arun Singh."

5. A copy of the said ruling was forwarded to the Speaker, Lok Sabha by Chairman, Rajya Sabha on 28th March, 1988. No further action in the matter was taken by the Speaker, Lok Sabha.

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LOK SABHA (1988)

Point of privilege

Alleged misleading of the House by a member

Facts of the Case and ruling by the Speaker

On 1st March, 1988, the Speaker (Dr. B.R. Jajhar) observed as follows:—

"On 15th December, 1987, Shri P.R. Kumaramangalam gave notice of a question of privilege against Shri K.P. Unnikrishnan for making allegations on the floor of the House against Shri Priya Ranjan Das Munsi, Minister of State in the Ministry of Commerce by making an untrue statement deliberately to mislead the House during the discussion on 'No Confidence Motion' on 10th December, 1987.

Shri Kumaramangalam referred to the proceedings of the House dated 10th December, 1987, when Shri K.P. Unnikrishnan made certain allegations against Shri Priya Ranjan Das Munsi which were refuted by him. While making the allegations, Shri Unnikrishnan had referred to the Kandla Free Trade Zone and stated that between November, 1984 when our distinguished Prime Minister came into office

and June, 1987, the Bachchan brothers in Kandla Free Trade Zone alone have cornered licences worth Rs. 23.5 crores, and exported value-added for Rs. 33 crores....I am not talking now about the other licences they have cornered through certain corrupt elements in the Ministry of Commerce". Shri Unnikrishnan wanted the Prime Minister to have an enquiry made about the activities of the Bachchan brothers, not merely regarding FERA violations, but also what he called 'import licence scandals'.

Refuting the allegation, Shri Das Munsi said:

'...What he is stating is absolutely wrong, and he is trying to overwhelm us by using certain words. We have answered this question, he has himself put the question....He can quote the answer himself. This is not a fact...All these norms of value-added or FERA have been maintained i.e. according to the norms of the licences. We have replied. No fault was there.'

Shri Kumaramangalam contended that since the allegations made by Shri K.P. Unnikrishnan had been refuted on the floor of the House by Shri Das Munsi, Shri Unnikrishnan made an untrue statement deliberately to mislead the House and thereby committed contempt of the House.

As per established practice, I referred the notice to Shri K.P. Unnikrishnan for his comments. In his reply, Shri Unnikrishnan has stated as follows:—

'I have not been able to understand what exactly is the breach of privilege....except that Shri Kumaramangalam accepting the Minister's version that what I said was *wrong*. Even if, for argument sake, it is admitted that what I said was wrong.....it does not constitute a question of privilege. A wrong statement cannot be construed to be a deliberately untrue statement knowingly and wilfully made to mislead the House—a condition precedent for a question of privilege.'

Shri Unnikrishnan has also referred to the provisions contained in Article 105 of the Constitution and stated that 'when the Constitution of India protects the right of members, such right of free speech as exercised by the member uninterrupted or unrestrained by the Speaker or the Deputy Speaker cannot be made subject matter of question of privilege.'

Shri Unnikrishnan has not furnished any documentary or other conclusive evidence to prove the allegation made by him in the House. It is well established that the statement made by the Minister is considered final and accepted as the correct statement of the position in matter unless proved otherwise.

It is also well established that an untrue or incorrect statement or an unfounded allegations made by a member on the floor of the House does not constitute a breach of privilege. The remedy and the procedure for pointing out mistake or inaccuracy in a statement by a Minister or a member is laid down in Direction 115. In order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made wilfully, deliberately, knowing it to be false and with the intention of misleading the House. Shri Unnikrishnan made a sweeping allegation which was immediately refuted by Shri Das Munsi and the position stood corrected. This was, of course followed by a free exchange of challenges and counter challenges between opposition and ruling party members and offer, demand and agreement for reference of the matter to the Privileges Committee in which members of both sides of the House joined.

Matters of privilege are governed by Rules 222 to 228 which *inter alia* require as the first pre-requisite a notice in writing for a question of privilege being raised on the floor of the House. After such a notice is received, the matter can be raised on the floor of the House with the consent of the Speaker or referred by the Speaker to the Committee of Privileges. In the instant case, when Shri Unnikrishnan made certain allegations which were categorically refuted by the Minister, the question of privilege was not at all before the House; no notice had been received and no consent to raise the matter as a matter of privilege had been given.

In view of this position, so far as the demand, offer and agreements in regard to the matter being referred to the Privileges Committee made on the floor of the House on that day are concerned, they would not be relevant for determining the matter of privilege.

The question whether a matter complained of is actually a breach of privilege or contempt of the House is entirely for the House to decide but the Speaker before giving his consent to the matter being raised on the floor of the House or before making reference to the Committee has to be satisfied that

the matter is fit for further enquiry or requires the intervention of the House. Successive speakers have held that the Speaker, before he gives his consent, must be satisfied that a *prima facie* case of breach of privilege has been made out.

Even when the Speaker is satisfied of there being a *prima facie* case of breach of privilege, the normal thing is for him to allow the matter to be raised on the floor of the House and for the House to take a decision itself or refer the matter to the Committee. The Speaker's power under rule 227 is an exceptional provision to be used by the Speaker in his discretion only sparingly and in very clear cases of breach of privilege on which there may appear to be unanimity in the House.

After careful consideration of the facts in the present case, rules, precedents and well-established parliamentary conventions. I am satisfied that no *prima facie* case of breach of privilege has been made out.

I, therefore, withhold my consent to the raising of the matter in the House as question of privilege.

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LOK SABHA

(1989)

Point of Privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Speaker

On 29th March, 1989, the Speaker (Dr. B.R. Jajhar) observed *inter alia* as follows:—

"On 6th March, 1989, Prof. Madhu Dandavate gave notice of a question of privilege against Shri S.B. Chavan, Minister of Finance, for allegedly deliberately misleading the House on 28th February, 1989, during his Budget speech. In his notice, Prof. Dandavate stated *inter alia* as follows:

"In the Budget he has projected an overall deficit of Rs. 7337 crores. He has stated in his Budget speech that the deficit has been kept at a low level.

However, this has been done by tampering with the normal budgetary process.

In the document "receipts budget 1989-90" on page 13 the "Net other Non-Tax Revenue" has been shown as Rs.4218 crores. On page 17 of the same document, it is stated that "Budget Estimates 1989-90 include a contribution of

Rs. 2300 crores from the pool account of Oil Coordination Committee lodged in Public Account." If this contribution were not to be included in the receipts, the net other Non-Tax revenues would have been reduced from Rs. 4218 crores to Rs. 1918 crores and consequently the overall deficit for 1989-90 would have arisen to Rs. 9637 crores.

The Oil Pool Fund lodged in Public Account has been created to even out the fluctuations between the domestic and international oil prices. The fund is thus to be used when the international prices of oil rise exorbitantly.

By showing the oil fund contribution of Rs. 2300 crore in the public account as receipts in the revenue budget, the Finance Minister has deliberately distorted the normal budgetary process only to give an impression that the deficit in the Budget for 1989-90 is low.

By deliberately misleading the House the Finance Minister has shown disregard for the Lok Sabha and has committed a 'breach of privilege of the House.'

1. Referred the matter to the Minister of Finance, Shri S.B. Chavan, for his comments. In his reply dated 8th March 1989, Shri S.B. Chavan stated *inter alia* as follows:—

"The pool account of Oil Coordination Committee represents the surplus accruing to the Oil Companies arising from the difference between the selling prices of petroleum products and the retention prices allowed to the companies. The OCC keeps in deposit with Government their funds which are surplus to their normal requirements. Considering these facts, it was decided that Rs. 2300 crores should be transferred from the deposit account as contribution to Government. This is a transfer transaction from Public Account (Capital Budget) to Consolidated Fund (Revenue Budget). While Consolidated Fund has taken a credit of Rs. 2300 crores (which has been referred to by Prof. Dandavate) Public Account has taken a debit of Rs. 2300 crores (*vide* pages 19 and 29 of the document Receipts Budget which show the effect of this transaction on Public Account).

2. The overall deficit of Government is computed taking into account the transactions of Consolidated Fund as well as Public Account. As the addition to Consolidated Fund has been neutralised by the reduction in the Public

Account, this transfer transaction does not effect the overall deficit of Central Government. In other words, even if this transaction had not been put through, the overall deficit in the Budget would have remained at Rs. 7337 crores.

3. The Budget documents have reflected the correct position. The question of misleading the House does not arise as this transaction has no bearing on the overall deficit."

A copy of Finance Minister's reply was handed over to Prof. Madhu Dandavate.'

Commenting upon Finance Minister's reply Prof. Madhu Dandavate, in his letter dated 13th March, 1989 addressed to me, stated *inter alia* as follows:—

'My objections are as follows:—

(1) The practice of transferring Rs. 2300 crores from the capital account to the revenue account is itself objectionable. It would be as irregular as Government encroaching upon the Railway Pension Fund and using it for the payment of salaries of the Secretariat employees.

(2) The capital account and its surpluses are to be utilised to build the capital assets and not for transferring to the revenue account to reduce the revenue deficit.

(3) More than the overall deficit, it is the revenue deficit that is the correct indicator of the state of the economy and it is undoubtedly a fact that the Finance Minister has transferred Rs. 2300 crores from the capital account to the revenue account only to create an optical illusion of reduced revenue deficit.

(4) My fundamental objection is to Government's action in appropriating for its current spendings, moneys belonging to a specific fund set up for a specific purpose of meeting out the fluctuations between the domestic and international prices of oil. The money simply does not belong to it. (If a private company were to resort to such a practice, it would have been alleged of criminal misappropriation).

(5) Against this background I still feel that the Finance Minister has misled the House and has distorted the normal budgetary process and has thereby committed a breach of privilege of the House.'

I referred the above points to the Minister of Finance for his comments. In his reply

dated 14th March, 1989, the Minister stated *inter alia* as follows:—

'Points 1 and 4: Under the present arrangements surpluses of the Oil companies over and above the retention prices are pooled with Oil Coordination Committee to be drawn upon if necessary to secure the retention prices. This account has over the years accumulated and every year the surpluses are being added into the account. Its present level is Rs. 8900 crores. The surplus on account of the sale of petroleum products arises mainly from the policy of the Government in regard to administered prices. This is not substantively different from the surpluses arising from procurement and sale of other commodities like edible oils. The profit on sale of imported edible oils is taken in the Budget as a revenue receipt. That the revenue Budget of the Government should have the benefit of such surplus is further justified by the fact that any losses arising from administered/controlled prices relating to certain other commodities like food and fertilizers are borne by the revenue budget of Government. The comparison of this pool account with Railway Pension Fund is, therefore, not appropriate.

Point 2: The surplus in the capital account., *i.e.*, difference between the capital receipts and capital expenditure including capital investment has, whenever available, been in effect applied to meet revenue expenditure as the revenue receipts of Government are not adequate to meet revenue expenditure. In 1989-90 Budget, there would have been such a capital surplus if this transfer was not made and that surplus would also have been utilised to meet revenue expenditure. Hence the transfer entry does not create any real difference in the application of the capital surplus. As for the rationale of the mechanism of transfer, the justification is given in the foregoing paragraph. As I have already explained, the surplus on account of administered prices appropriately belongs to the revenue side of the account.

Points 3 and 5: The point whether the revenue deficit or the overall deficit is the correct indicator of the state of the economy is one on which no opinion has been expressed in any of the Budget documents for 1989-90. Both the deficits have been correctly presented and no facts have been suppressed. There is, therefore,

no question of either an optical illusion being created or the House being misled or budgetary process being distorted. In any case, what has been presented to the Parliament are the estimates of the Government which have been correctly reflected in the Budget documents. The final decision on the Budget will, as usual, be taken by the Parliament. During the discussion, the Hon'ble Members have ample opportunity to express their opinion on the substantive features of the estimates.'

I have gone into the matter carefully and find that the contention of Prof. Madhu Dandavate that the finance Minister deliberately misled the House, is not borne out by the facts of the case. A perusal of the budget documents shows that in the matter of transferring an amount of Rs. 2300 crores from the pool account of the Oil Coordination Committee, from capital account to revenue account, the Finance Minister has clearly put all the facts on record and concealed nothing. The question of deliberately misleading the House and thereby committing a breach of its privilege does not, therefore, arise.

It is nevertheless apparent that a more favourable picture of revenue deficit has been projected by transferring Rs. 2300 crores from capital account to revenue account. While it is true that this transfer does not affect the overall deficit which is computed taking into account the transactions both of the Consolidated Fund and the Public Account, I am of the view that it would have been more appropriate if the surplus in the account had not been utilised even partially, to offset the revenue deficit.

As hon. members are aware, it is entirely for the Government to decide the manner in which the budget proposals are to be prepared, but this House has the final authority to approve, modify or reject them.

I, therefore, withhold my consent to the raising of the matter in the House as a question of privilege."

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LOK SABHA

(1989)

Point of privilege

Alleged misleading of the House by a Minister

Facts of the case and action taken by the House

On 3rd April, 1989, the Speaker (Dr. B. R. Jakhar) informed the House as follows:—

“.....On 28th March, 1989, Prof. Madhu Dandavate and Shri Thampan Thomas gave notices of question of privilege against Shri Buta Singh, Minister of Home Affairs, for allegedly misleading the House by concealing two volumes of the Report of Justice Thakkar Commission of Inquiry on the assassination of the late Prime Minister, Smt. Indira Gandhi while laying it on the Table of the House on 27th March, 1989. Next day, Shri C. Madhav Reddy also gave a notice of question of privilege on the same subject. I had reserved all these notices for my consideration.

I give my consent under Rule 222 to Prof. Madhu Dandavate to raise the question of privilege for consideration of the House.”

2. Prof. Madhu Dandavate then sought leave of the House to raise the question of privilege. As no objection was taken, the leave was granted and Prof. Madhu Dandavate raised the question of privilege.

3. While raising the question of privilege Prof. Madhu Dandavate stated *inter alia* as follows:—

“On 27th March, 1989, Shri Buta Singh laid on the Table of the House: (i) the Thakkar Commission's interim report on assassination of Smt. Indira Gandhi (ii) the final report of the Commission (iii) the memorandum of action taken on the report and (iv) the statement explaining why simultaneous Hindi and English versions of the report could not be published. Sir, on scrutinising the two volumes of the report presented in the House on 27th March, 1989, I find the following reference on page 7 para 1.8.3 of the interim report and I quote:

‘The Commission's report is in four volumes. Volume-I comprises five chapters as mentioned above. Volumes-II and III contain the papers pertaining to Show Cause Notices issued to individuals, their responses

and the proceedings of the Commission in relation thereto. Each volume comprises nearly 2000 pages. Volume-IV contains interrogatories issued to various persons individually, and their respective responses, as also inquiries by way of references made from a number of individuals and their responses. All the volumes carry their own index. Papers pertaining to matters covered by the two terms of reference which are not dealt with in this report will be included in a separate volume along with the report on the remaining matters’.

It is thus clear that the Thakkar Commission submitted to the Government four volumes of the report whereas all those volumes have not been placed before the House by the hon. Home Minister. The Union Minister has thus concealed some volumes from the Parliament and thereby misled the House. This amounts to showing disregard for the House and, therefore, a breach of privilege of Lok Sabha. In addition, I would like to refer to the amended Commissions of Inquiry Act, 1952, after it was amended in 1986 to which we had opposed at the introduction stage and at the consideration stage.... There is a mention that additional sub-section (5) of section 3 of the Commissions of Inquiry Act was added as an amendment to make a provision that if the Government feels that in the interest of the security, the interest of friendly relations with the neighbours and in the public interest those should be withheld from the Parliament, a notification is to be issued. That notification had come for approval before this House. When that is done, they can withhold those reports from the Parliament. This was the provision. But, Sir, below Sub-section (5) of Section 3, there is an explanatory note. There can be a difference of opinion on that. I still hold and this is my opinion. In sub-section, (5) it is stated; for the purpose of this section, Commission's Report includes, Interim Report and all proceedings—‘all’ is not my word, that is included in the explanation. Your contention seems to be that, that explanation is applicable to sub-section (5) of section 3 and not to sub-section (4) of section 3 under which the Reports are to be placed. It is a very strange interpretation. Number of jurists have come forward with that explanation and

they have held today that, that explanation is also applicable to sub-section (5). I will give a simple analogy. After all, a report is a report whether you refer to a report in an earlier section or a different section. For instance, if a fruit Mango is to be defined, whether it is kept in a refrigerator or whether it is thrown out, in both the cases, Mango continues to be a Mango, and, therefore, whether you lay a report on the Table of the House or whether you withhold from the House, in either case... Therefore, it is very clear that as far as the Report is concerned, every part of the entire law report has to be a Report, that means, Interim Report plus all the proceedings. And that being my contention, naturally, I am disturbed that when the Commission itself, really speaking, do not take it as an affront, why do you need an opinion of the Attorney General at all? Because I think, the person who writes the Report, the author of the Report is the best authority to tell the House, what is a Report. Now the Commission he says, has formulated a Report. They say in Interim Report, page 7.1.83 that these are the Report. We must accept what the authors have said. Therefore, if the authors of the Report have themselves defined the Report in a particular manner, I would, earnestly request you rather than referring it to the Attorney General or any other jurist or even to Madhu Dandavate, better refer it to the authors of the Report. And they themselves say that these are the Reports. We expect that what the authors of the report, that is, the Commission has said, those Reports must come before the House. And unless they come before the House, it will be difficult for us to understand the mind of the Commission to arrive at a conclusion regarding the recommendations of the Commission. We must know what is the *modus operandi* that the framers of the Report have formed and therefore, all these aspects of the Report are very necessary....Therefore, I earnestly request you to accept this privilege motion. If you are not able to make up your mind on the spot, I would like to refer the matter to the Privileges Committee. In your own way you can do it. In a cool and calculated manner let them arrive at a decision because in times to come whatever ruling is given that will set the precedent."

4. The Speaker permitted some members to speak on the motion.

5. Replying to the points raised by Prof. Madhu Dandavate and others, the Minister of Home Affairs (Shri Buta Singh) stated *inter alia* as follows:—

"....This is a letter written to the then Home Secretary by the Secretary of the Commission:

'The hon. Commission has already submitted its Interim Report and Final Report personally to the hon. Minister for Home Affairs on 19-11-1985 and 27-2-1986 respectively.

2. As directed by the Hon. Chairman, I now submit the secret records relating to the Reports. They are in 12 volumes as described below:

4 volumes — II-A to II-D

4 volumes — III-A to III-D

2 volumes — IV—Sections 1 and 2

The above ten volumes pertain to the Interim Report presented on 19-11-1985.

3. I also submit two volumes, Part I-A (Section 1) and Part I-A (Section 2). These volumes relate to the Final Report presented on 27.2.1986.'

The records of the Commission were submitted to the Home Secretary after 22 days. Therefore, Sir, the Report as submitted to the Hon. Home Minister on the 27th of February is complete and final. There is nothing more to it. I have not done anything by which it can be construed that I have committed a breach of privilege of this House. Therefore, I refute all the innuendoes and all the charges that have been levelled against me..... Now, Sir, in the end I would like to submit most respectfully and humbly to this august House that I have been in this House for the last 25 years. I have been trying to discharge my duties to this House with the utmost sincerity and it is too much on the part of Prof. Dandavate to say that I have deliberately misled this House. Far from truth, I repudiate all the charges made by the Opposition, including Prof. Dandavate and I request that this House may throw these charges out that are levelled against me."

6. After discussion, Prof. Madhu Dandavate moved the following motion:—

"That this House is of the opinion that the Home Minister Shri Buta Singh has committed a breach of privilege of the House in

deliberately misleading the House by not laying on the Table of the House the complete Report of the Thakkar Commission regarding the assassination of Shrimati Indira Gandhi."

The motion was negatived.

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LOK SABHA

(1989)

Point of privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Speaker

On 15th May, 1989 the Speaker (Dr. B.R. Jajhar) observed as follows:—

"On 10th May, 1989, Shri V. Kishore Chandra S. Deo gave notice of a question of privilege against the Minister of Home Affairs, Shri Buta Singh, for allegedly misleading the House on 8th May, 1989, while replying to the discussion regarding communal situation in various parts of the country. In this notice, Shri Deo stated *inter alia* that Shri Buta Singh misled the House wilfully and deliberately by Stating that a three-judge Division Bench of the Allahabad High Court would decide the Babri Masjid—Ram Janambhoomi dispute by taking up the case on July 10, 1989 which is false information as reported in the *Indian Express* dated 10th May, 1989.

The *Indian Express* of 10th May, 1989, carried a news report captioned 'Buta misleads Parliament which read *inter alia* as follows:

'The facts are not in keeping with what the Home Minister told the Lok Sabha. Neither has any bench been constituted, nor is the case being taken up by any bench of the Allahabad High Court on July 10.

A two judge division bench of the Allahabad High Court at Lucknow is seized of an application made by the State Government for transferring four cases relating to the Ayodhya shrine pending in Faizabad courts to the High Court for their disposal. The arguments before the bench on the petition moved in February remained inconclusive

on May 3 and the next date fixed by the Court for the hearing is July, 10.

The division bench is yet to decide whether the petition of the Government for withdrawal of cases from Faizabad civil courts to the Lucknow Bench, their consolidation and disposal here should be admitted or not'.

The Minister of Home Affairs while replying to the discussion regarding communal situation in various parts of the country on 8th May, 1989, had stated as follows:—

'After discussing the matter with the Uttar Pradesh Government, we said that the dispute—the whole consolidated case—should be placed before the High Court of Uttar Pradesh and a Division Bench comprising of three judges should be constituted for the purpose. They will look into the matter and their decision should be accepted by all....Now that the State Government has perhaps moved, or is going to move the High Court—it has been posted for the 10th of July and all parties are appearing before the High Court—definitely I am sure these matters can be taken before the High Court'.

It is, therefore, clear that the Minister of Home Affairs did not say that a Division Bench had been constituted and that the Babri Masjid—Ram Janambhoomi dispute was fixed for hearing before the Bench on 10th July, 1989. All that the Minister of Home Affairs is on record as having said is that the Central Government had had talks with the Government of Uttar Pradesh regarding the dispute and it was suggested that a Division Bench of the Allahabad High Court comprising of three judges should hear the case.

Instead of the Minister of Home Affairs misleading the House, much less deliberately it appear to me to be a case of misreporting of the proceedings of the House by the newspaper concerned and placing of total reliance thereon by Shri V. Kishore Chandra S. Deo without referring to the relevant proceedings of the House.

I have emphasised from time to time that members should not repose implicit faith in news reports and should verify their correctness or otherwise for themselves

before making allegations.

No question of privilege is involved in the matter. I, therefore, do not give my consent to the raising to the matter as a question of privilege on the floor of the House under rule 222."

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LOK SABHA
(1990)

Point of Privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Speaker

On 2nd May, 1990, the Speaker (Shri Rabi Ray) observed as follows:

"Shri Banwarilal Purohit gave notice of a question of privilege on 12th April, 1990, against the then Minister of Health and Family Welfare (Shri Nilamani Routray). Shri Purohit contended that while replying to Unstarred Question No. 3305 regarding 'compulsory iodisation of salt' on 4th April, 1990, the then Minister of Health and Family Welfare gave 'factually incorrect and deliberately false and misleading' reply with a view to 'intentionally spreading disinformation about the subject of iodised salt'.

Unstarred Question No. 3305 which sought to elicit information on the question whether several representations had been received by Government to remove the restriction of compulsory iodisation of salt, was replied to by the then Minister of Health and Family Welfare *inter alia* as follows:—

"The surveys carried out by the Directorate General of Health Services, I.C.M.R. and the States have revealed that no region in the country can be considered completely free from goitre and other Iodine Deficiency Disorders. Iodisation of salt is the cheapest and proven method of prevention of goitre and other Iodine Deficiency Disorders. No scientific report suggesting adverse effects of iodised salt has come to knowledge of this Ministry'.

Shri Purohit has sought to establish with reference to a number of survey and study reports and published material on the subject that the reply given by the Minister was false and misleading.

I had forwarded the notice of question of privilege given by Shri Purohit to the then Minister of Health and Family Welfare for furnishing his comments

thereon. I have since received the comments of the Minister, after going through the comments of the then Minister carefully, I am convinced that the then Minister of Health and Family Welfare did not mislead the House, much less deliberately.

It is well established that in order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. A breach of privilege can arise only when the member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly and with a view to mislead the House.

The then Minister of Health and Family Welfare has also assured that if the member has got in his possession any scientific data or any scientific report substantiating his contentions regarding adverse effects of iodised salt, he would be happy to get them examined.

I, therefore, refuse my consent to the raising of the matter on the floor of the House as a question of privilege."

274
LOK SABHA
(1990)

Point of Privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Speaker

On 7th September, 1990, the Speaker (Shri Rabi Ray) observed as follows:—

"Sarvashri P. R. Kumaramangalam, Harish Rawat and Dinesh Singh, MPs gave separate notices of question of privilege on 20th August, 1990 against the Minister of Information and Broadcasting (Shri P. Upendra) alleging that the Minister misled the House on 17th August, 1990 and thereby committed a breach of privilege and contempt of the House. The members alleged the in spite of an assurance given in the House on 17th August, 1990 by the Minister of Information and Broadcasting that the Doordarshan programme 'Khula Manch' scheduled for telecast on 19th August, 1990 featuring the Minister of Railways (Shri George Fernandes) will not be censored, the programme telecast by Doordarshan on 19th August, 1990 was censored. The members contended that the Minister's assurance in the House on 17th August, 1990, therefore, amounted to a breach of privilege as the Minister had misled the House. Shri Dinesh

Singh also sought to raise the matter in the House on 20th August, 1990 and stated that the programme was censored inasmuch as certain questions asked by a journalist-participant of the programme were deleted and kept out of the programme.

The Minister of Information and Broadcasting (Shri P. Upendra), while clarifying the position had stated *inter alia* as follows:—

'I did assure him that there would not be any censoring. I stand by that statement. But there is a difference between censoring and editing. Sir, when this programme was started, certain parameters were discussed and it was decided that this will be a programme in which the Ministers will discuss about the functioning of their Ministries, answer to the queries of the selected audience...Generally they are supposed to put questions which they have forwarded. But certain times it happens that questions which do not relate to that particular Ministry are also put. Though this programme is meant for half an hour, it is recorded, may be, for fifty minutes or one hour. After that, all the portions relating to that particular Ministry are retained and other irrelevant things not concerned with that Ministry are edited out. Therefore, in this case also every word relating to Railways was retained, not a single word was removed, including all provocative statements. Even insulting remarks have been kept. I stand by that statement. No censoring has been done. The viewers and the questioners were reminded again that the questions should relate to that particular Ministry and all other things would be edited. That is the policy and that will continue to be followed.'

Shri P. Chidambaram, M.P. in his notice of question of privilege given to me on 21st August, 1990, referred to a news-report published in the *Times of India* dated 21st August, 1990, wherein it was reported that two questions were removed from the recorded version of the programme prior to its telecast. As these questions reportedly related to Railways, Shri Chidambaram alleged that the Minister had misled the House on 20th August, 1990 that only questions not relevant to the subject of Railways were edited out and questions relevant to Railways were not left out.

On 22nd August, 1990, Shri M.J. Akbar gave notice of question of privilege alleging that the

opening and closing remarks of one of the two presenters of the programme were censored out and the voice of an announcer was used with a different script. Shri Akbar also sought to raise the matter in the House on that day.

On 23rd August, 1990, Sarvashri Janardhana Poojary and Dinesh Singh gave notices of question of privilege against Shri P. Upendra with reference to a news-report appearing in the *Indian Express* of that day wherein the Minister of Railways (Shri George Fernandes) was reported to have stated in an interview that he had told the Minister of Information and Broadcasting that the programme should be shown without cuts and the people could come to their own conclusions about it. The Minister of Railways was also reported to have said that 'editing of the programme was not necessary' and that he did not make any distinction between 'editing' and 'censoring'. Sarvashri Dinesh Singh, Janardhana Poojary and some other members also sought to raise the matter in the House.

Copies of all the notices of question of privilege were forwarded under my direction to the Minister of Information and Broadcasting for furnishing his comments. Shri Dinesh Singh gave another notice in the meantime on 29th August, 1990 alleging that the stand taken by the Minister that the questions not relevant to the portfolio of the Minister of Railways were edited out of the programme, has been belied by a letter (a copy of which Shri Dinesh Singh enclosed with his notice) written by one of the participants—a journalist to the Minister. According to this letter the producer of the programme in a meeting with the presenters of the programme and some of the participants decided that the format of the programme should include questions other than those relating to Railways to make the programme interesting.

I have since received the comments of the Minister of Information and Broadcasting. He has admitted that the Minister of Railways had spoken to him and requested that the programme should be telecast in its entirety. The Minister of information and Broadcasting, however, maintains that 'Khula Manch' is a programme produced by Doordarshan and it is for Doordarshan to decide what portions of a programme ought to be edited on grounds of relevance as well as on other grounds. The final version in which a programme is telecast depends, according to the Minister, not on the person who figures in the programme but on programme requirements. Irrespective of the view of the

participating Minister regarding the retention of portions not relating to his portfolio, Doordarshan is entirely within its right in editing such portions on grounds of lack of relevance.

As regards the allegations that several questions—some of them pertaining to Railways—had been ‘censored’, the Minister has stated as follows:—

“Some journalists, who were present in the audience, not only raised questions on matters not relating to the portfolio of the Railway Minister but continued to persist in putting supplementary questions on those subjects. This had the affect of diverting attention from the problems relating to the railways which should have been the field for questions. The two presenters also did not seem to make any attempt to bring the discussion back to railways. If this programme had been telecast without its being edited, the entire focus would have been lost and the viewing public would have been deprived of an appropriately presented programme on the Indian Railways. In order to ensure that the programme did not lose focus, Doordarshan edited those portions not relating to the railways....Shri Chidambaram, in his notice seeking permission to move a motion of privilege, has placed on record a report in the *Times of India* dated 21st August, 1990. The report states that I had told in both the Houses of Parliament that everything pertaining to the railways had been kept in the programme. However, according to the report relied on by Shri Chidambaram, two questions relating to the railways had been removed. The first question is whether Shri Fernandes would allow Pepsi to be served in the railways. The report states that Mr. Fernandes had stated that if it was upto him, he would not have allowed Pepsi to be served on the railways. It is a fact that such a question was asked and was also answered by Shri Fernandes. This question, however, was among a series of questions relating to the entry of Pepsi Cola into the Indian market....This question, which had more to do with the sale of Pepsi than with the Indian Railways, could not been retained in the edited version since it would have made no sense in isolation, the absence of the other questions solely relating to Pepsi. It would have been extremely disjointed if this question in isolation had remained at the beginning of the programme since the entire portion relating to Pepsi was at the beginning of the discussion which was meant to be on the Indian Railways.”

The allegation that the voice of an announcer was used in place of the voice of one of the presenters

has been denied by the Minister and it has been stated that since a large number of irrelevant questions were put during the ‘Khula Manch’ featuring the Minister of Railways, it was decided to make it abundantly clear to the viewers that for future programmes questions relating to the portfolio of the concerned Minister only will be entertained. This announcement was made at the end of the programme by an announcer and it could not have been made by the presenter as the programme was recorded a few days prior to the telecast.

The limited point for decision before me is whether the Minister of Information and Broadcasting misled the House and committed a breach of privilege by stating that programme ‘Khula Manch’ telecast on 19th August, 1990 was ‘edited’ and not ‘censored’.

A lot of confusion has been created by the use of the words ‘edited’ and ‘Censored’. The Chambers 20th Century Dictionary defines these two words as follows:—

“‘Censor’ means an official who examines books, papers, telegrams, letters, films, etc., with powers to delete material or to forbid publication, delivery or showing.

‘edit’ means to prepare for publication, broadcasting etc. to revise, to censor, to make up the final version....”

It would thus be seen that editing includes censoring. However, the word ‘censor’ has come to acquire odium because the job of a censor is, more often than not, to shut out expression of an opinion which is considered distasteful by the authorities that be. Editing too requires expurgating or censoring of material not germane to the subject. The present case has, therefore, to be viewed in this context.

As Members are aware, Doordarshan is a Government owned medium. I cannot, therefore, but agree with the Minister of Information and Broadcasting that it is for the Government to lay down policies and guidelines regarding quality and contents of the programmes telecast on Doordarshan and to edit the programmes in pursuance of those policies or guidelines.

In the instant case, the Minister has categorically stated that nothing relating to Railways was edited out. For anyone to expect, much less insist, that matters other than railways on which questions were asked and replied to by the Minister of Railways should have been telecast, would have, in my view, ‘derailed’ the programme itself. The Minister’s

contention that Doordarshan were well within their rights to exclude such questions and answers from the programme, cannot, therefore, be faulted.

It is well-established that if any statement is made on the floor of the House by a Member or a Minister which another Member believes to be untrue, incomplete or incorrect, it does not constitute a breach of privilege. In order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. A breach of privilege can arise only when the Member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly.

Keeping in view the fact stated above, I am of the view that the Minister cannot be said to have misled the House, much less deliberately about the editing/censoring of the programme 'Khula Manch' telecast on 19th August, 1990. Accordingly, I disallow the notices of question of privilege given by Sarwashri P. R. Kumaramangalam, Harish Rawat, M. J. Akbar, Janardhana Poojary and Dinesh Singh and do not give my consent to the raising of the matter in the House as a question of privilege.

I had also received another notice of question of privilege from Shri M. J. Akbar against the Minister of Information and Broadcasting alleging that the Minister misled the House on 10th August, 1990 by stating that a participant of the 'Khula Manch' telecast on 5th August, 1990 was not — as alleged by Shri Akbar — an actor but was a farmer and that to give credibility to the programme, Doordarshan had associated an independent producer, the Hindustan Times TV, and all the names selected for the said independent producer. Shri Akbar contended that inquiries made by him revealed that the participants of the programme were 'handpicked by the Doordarshan authorities' and all the questions had been cleared by Doordarshan.

The Minister, in his comments furnished to me, has stated as follows:

'In the initial stages, when the idea of this programme was conceived, it was decided to entrust the production to an outside agency. Thereafter, it was decided that Doordarshan, in view of the facilities being readily available with it, would produce the programme and would involve the Hindustan Times TV to assist them in some aspects relating to the production of the programme, as consultants. When this matter was

discussed with the representatives of Doordarshan and Hindustan Times TV, instructions were given to the effect that the selection of participants for the programme may be finalised by Hindustan Times TV. Thereafter, the programme details had been worked out by Doordarshan and HTV and, in the process, it appears that Doordarshan finalised the list of participants. However, this matter did not come to my notice and, therefore, on the basis of my understanding of the responsibilities assigned to the Hindustan Times TV and Doordarshan, I had mentioned in the House that the selection of participants was made by Hindustan Times TV. There was no attempt, much less a deliberate attempt, on my part to mislead the House.'

The Minister has also stated that he has verified the position regarding the allegation that an actor was attempted to be presented as a farmer on the programme and it was found that the person selected is a farmer who is also a part-time actor.

In view of the foregoing, the Minister cannot be said to have misled the House. No question of privilege is, therefore, involved in the matter. I do not give my consent to Shri M. J. Akbar to raise the matter on the floor of the House as a question of privilege.

275
LOK SABHA
(1993)

Point of privilege

Alleged misleading of the House by a member

Facts of the case and ruling by the Speaker

On 21 August, 1993, Shri A. Charles, a member, gave notice of a question of privilege against Shri Ram Vilas Paswan, another member, for allegedly wilfully misleading the House on 13 August, 1993 while raising a matter of urgent public importance regarding reservation for SC/ST employees in promotion in the Syndicate Bank. In his notice of question of privilege, Shri Charles stated that Shri Paswan had made misleading statement that SC/ST employees in the Syndicate Bank were denied reservation and that nearly 1600 vacancies had been kept vacant on the basis of the orders of the Government of India consequent to the judgement of the Supreme Court on Mandal case.

2. On 27 August, 1993, Shri Charles, with the permission of the Speaker raised the matter in the

House. While raising the matter Shri Charles stated that on 13 August, 1993 during Zero Hour, some members had raised the question of implementation of the Mandal Commission Report. During the discussion, according to Shri Charles, "Shri Ram Vilas Paswan made a wild allegation against Shri Kesriji, (Minister of Welfare) that the reservation to the Scheduled Caste and Scheduled Tribe employees of the Syndicate Bank was denied because of the non-implementation of the orders of the Supreme Court in the Mandal case. Since that was factually incorrect, Shri Kesriji made a statement on 19 August, 1993 clarifying the whole position... The statement made by Shri Kesriji reveals that there was absolutely no connection between the Mandal Commission judgement and the Syndicate Bank employees issue." Concluding his speech, Shri Charles stated, *inter alia*, as follows:

"The following facts have thus been clearly proved:

1. That reservation to the SC/ST employees was denied to them on the basis of the clarificatory orders of the Government dated 1.11.90;
2. That the above orders were issued by Shri V.P. Singh's Government;
3. That Shri Ram Vilas Paswan was a Cabinet Minister in that Government in charge of the Ministry of Welfare which is directly responsible for the welfare of SCs/STs;
4. That as Cabinet Minister of the V.P. Singh Government, Shri Ram Vilas Paswan was not only aware of the above orders but, he was also responsible for the above unjust orders;
5. That on 13.8.93 while participating in the discussion he not only deliberately suppressed the above facts, but knowingly made false allegations and misled the House;
6. That he deliberately accused Shri Kesriji of false charges knowing fully well that Kesriji was not responsible for denying promotion to SC/ST employees of the Syndicate Bank.

The above acts of Shri Ram Vilas Paswan thus constitute a serious case of breach of privilege of the House."

3. The same day, while replying to the points raised by Shri Charles, Shri Ram Vilas Paswan state as follows:

"...I only want to put the facts before you. I am happy that the Members of both the sides, i.e., the Government as well as of our side were present before you. You know very well about the judgement you gave. We need not go into the details. I only want to put before you this fact that a circular was issued on 1 November, 1990, as stated by my colleague, and on 1 April, 1991, the Full Bench of the Supreme Court stated that there should be reservation in promotions. Afterwards, on 23 December, 1992, when this matter was raised in Parliament, I enquired about it. In his notice of question of privilege he said that whereas I had mentioned 22 December, it was raised on 23 December. Since Shri Sitaram Kesriji in his statement quoted 22 December, I was also mentioning the date as 22 December. I am now correcting it as 23 December. When the matter was raised on 23 December, Shri Sitaram Kesriji told that the circular had already been issued and that reservation in promotions would not be discontinued. The House is aware of it. The judgement was given on 1 April, 1991 and on 23 December, 1992, Shri Sitaram Kesriji told that the circular had already been issued and that reservation in promotion would not be discontinued.

I had raised the matter regarding Syndicate Bank. The Syndicate Bank issued a circular on 28 April, 1993. According to that circular, the Syndicate Bank appointed 1600 employees and reservation in promotions was not allowed in those appointments, so I raised such a question. Even today, I want to say that Government had not issued a circular and the Government misled the House by stating that a circular was issued. But Government did not issue a circular and on 23 December, it was stated that the circular was issued. The circular has been issued three days before. I thank the Government for issuing the circular three days before which has been telecast and broadcast on TV and radio.

You know that whenever the question regarding SC/ST or weaker sections arises, we feel agitated and we are committed for this We are happy that the Government have issued a circular today but had this circular been issued earlier, the interest of Syndicate Bank employees would not

have been affected adversely for the last two years."

4. The same day, the Speaker (Shri Shivraj V. Patil) ruled as follows:

"My ruling is—and I am giving ruling for the first time on a breach of privilege of the House—that certain facts were brought to the notice of the House by the Members on both the sides. I think there was great desire and enthusiasm to make the points and in that great desire and enthusiasm to make the points, certain limits might have been crossed here and there. But I think that the Members wanted to clinch the issue and do justice. I do not find any intention to mislead the House and so this does not constitute a breach of privilege."

276

RAJYA SABHA
(1965)

Point of privilege

Alleged making of a wrong statement in the House by a Minister.

Facts of the case and ruling by the Chairman

On the 4th March, 1965, Shri Bhupesh Gupta, a member, complained that when a question was raised on the 26th February, 1965 regarding C.B.I. report and Cabinet Sub-Committee's report based on that investigation, the Minister of Home Affairs (Shri Gulzari Lal Nanda) had denied that it was an investigation but from the C.B.I. report which was laid on the Table of Lok Sabha, it was clear that it was in the nature of an enquiry. Shri Gupta contended that the Minister of Home Affairs has misled the House and thus had committed a breach of privilege of the House.

2. Shri Gulzari Lal Nanda then explained that in his reply he had said, "No formal investigation took place" and he did not say that no inquiry was made. Shri Nanda maintained that an inquiry was not the same as a "legal investigation" and in that sense no formal investigation was made.

3. The Chairman (Dr. Zakir Hussain) then observed as follows:—

"After hearing the Home Minister. I think no question of privilege arises."

277

RAJYA SABHA
(1966)

Point of privilege

Alleged incorrect statement made by a Minister in the House

Facts of the case and ruling by the Chairman

on the 26th August, 1966, Sarvashri Bhupesh Gupta and Raj Narain members, sought to raise a question of privilege against Shri Jaisukhlal Hathi, Minister of State in the Ministry of Home Affairs, in relation to a statement made by him in the House on the 11th August, 1966, concerning a news report which appeared in the *Statesman* of New Delhi, dated the 10th August, 1966, under the caption 'Sabotage plans by C.P.I. claimed'. In his statement, Shri Hathi had denied that the information as was mentioned in the newsreport had been given by the Ministry of Home Affairs. The members drew attention to a subsequent editorial appearing in the same paper of August, 26, 1966 under the heading 'Home Truth' which, according to the members, virtually repudiated the statement made on behalf of the Ministry of Home Affairs on the 11th August by Shri Hathi. The members sought that the issue should be referred to the Committee of Privileges to find out the truth of Shri Hathi's statement in the House.

2. Shri Hathi in his statement, reiterating the stand he had taken earlier stated *inter alia* as follows:—

"So far as I am concerned. Sir, I may say that at the time I made that statement I had made it according to my knowledge, that the Home Ministry or none from the Home Ministry had given this information outside. That is what I know. As regards the subsequent letter and other things. I am not concerned at this time. When the statement was made I knew what I said and I said what I knew."

3. The Chairman (Dr. Zakir Hussain) reserved his ruling.

4. On the 27th August, 1966, the Chairman observed *inter alia* as follows:—

"On the submissions made before me, I am unable to hold that a case has been made out to prove that Shri Hathi made any statement in this House which he believed to be untrue on August 11, 1966, and he attempted to mislead the House. I accordingly withhold my consent for raising the question of breach of privilege."

278
RAJYA SABHA
(1966)

Point of privilege

Alleged misleading statement made by a Minister in the House.

Facts of the case and ruling by the Chairman

On the 7th September, 1966, Shri Bhupesh Gupta, a Member sought to raise a question of privilege in the House against Shri B.R. Bhagat, Minister of State in the Ministry of Finance on the ground that Shri Bhagat, in the course of replies to certain supplementaries put on Starred Question No. 735 in the House on the 31st August, 1966 regarding the disposal of complaint filed by the Director of Enforcement, Foreign Exchange Regulation against the Laxmi Rattan Cotton Mills and its six Directors in the Court of City Magistrate, Kanpur, had given incorrect answers and thereby misled the House. In reply to a supplementary by Shri Niren Ghosh, another member, the Minister had replied:—

"The Company was proceeded against. No individual directors were involved in it. The company was penalised and a fine of Rs. 15,000 was imposed on M/s. Laxmi Rattan Cotton Mills Ltd."

2. Shri Gupta alleged that the complaint was filed against the company including also the six directors and the Minister had misled the House by saying that the company was proceeded against and no individual director was involved.

3. Shri B.R. Bhagat then stated *inter alia*:—

"The original question relates to the complaint made by the former Director in the court against the company and its six Directors. There is no question of my misleading the House because the question itself says the company and its six Directors. In the main reply I have not said that the Directors are not involved and in the supplementary I have said that the question was taken up in departmental adjudication. And my reply—this is very important—is to a specific question by Mr. Niren Ghosh as to why no action was taken by the Government against the Directors. And what I said was that the company was fined Rs. 15,000/- and as the Directors were not involved no fine was imposed on them.

4. The Chairman (Dr. Zakir Hussain) reserved his ruling.

5. On the 9th September, 1966, the Chairman observed as follows:—

"I have carefully gone through the relevant proceedings and I am satisfied that Shri Bhagat did not mislead the House. Shri Gupta's apprehension seems to arise out of a possible mis-understanding of the position in relation to the original prosecution in a court of law and the subsequent adjudication proceedings. I accordingly hold that no breach of privilege is involved."

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RAJYA SABHA
(1966)

Point of privilege

Alleged incorrect information furnished to the House about the arrest of two members by a magistrate and alleged wrong statement made in the House by a Minister about their arrest. For details of the case please see summary No. 40 at pp. 83-84 ante.

280

RAJYA SABHA
(1980)

Point of privilege

Alleged misleading of the House by Ministers regarding reported arrest of a police officer

Facts of the case and ruling by the Chairman

On 29th January, 1980, during Special Mentions, Sarvashri Rabi Ray, Lal K. Advani and some other members stated that Shri N.K. Singh, D.I.G., C.B.I., who had been incharge of the 'Kissa Kursi Ka' case, had been apprehended from his house for being taken to Gurgaon. Denying the arrest, the Minister of State in the Ministry of Home Affairs (Shri Yogendra Makwana) stated, *inter alia*, as follows:—

".....What has been stated by Mr. Rabi Ray, Mr. Advani and others, is far from the facts. Mr. N.K. Singh is not arrested as they have stated in this House..... This concerns the State of Haryana. Nowhere are we involved. But when we came to know that Mr. N.K. Singh has been arrested, we immediately contacted the Chief Minister of Haryana and ascertained that he is not arrested. So, whatever is stated by Mr. Rabi Ray and Mr. Advani is not correct...."

2. The Minister of Home Affairs (Giani Zail Singh) stated, *inter alia*, as follows:—

".....This matter does not concern the Central Government. Even then, when we came to know that

some police officer is being arrested, we contacted the State Government and were told that they have not arrested him. He has been called for getting some information. This is absolutely wrong that he has been arrested. He has not been arrested...."

3. On 30th January, 1980, Shri Lal K. Advani sought to raise a question of privilege against the Minister of Home Affairs (Giani Zail Singh) and Minister of State in the Ministry of Home Affairs (Shri Yogendra Makwana) for deliberately misleading the House in respect of the reported arrest of Shri N.K. Singh.

Shri Rabi Ray and some other members also sought to raise the matter in the House. The Deputy Chairman then observed, *inter alia*, as follows:—

".... all the Motions are under the consideration of the Chairman and due action will be taken on them...."

4. On 2nd February, 1980, the Chairman, while disallowing the question of privilege, ruled, *inter alia*, as follows:—

"I am concerned only with the question whether the Home Minister and/or the Minister of State in the Home Ministry can be said to be guilty of a breach of privilege and to see whether a *prima facie* case exists to grant leave under Rule 190 to refer the matter to the Committee of Privileges on the motion of the members.

The law appears to be well settled that the making of a deliberately misleading statement may be treated as a contempt of the House... The question arises before me if I can say that there was a deliberate misleading of this august House by the two Ministers when they made their statements....

'Mislead' in this connection must mean only that the Ministers drew the House into error by falsely stating that Shri N.K. Singh was not arrested and this was contrary to fact. The test to apply is not a general one but in relation to the conduct of the maker of the statement. A person may know, believe or suspect that what he is saying is false. The responsibility increases in proportion to the increase of knowledge and belief. The test to apply is: Does the maker of the statement know that the statement he is making is false or again that the maker is making the statement which he does not believe to be true. In either case, there would be deliberate misleading. A third or borderline case also exists when the maker is utterly

indifferent whether what he is saying is true or false. Here any person, without ascertaining for himself the truth of the matter asserts something as true and he must take the consequences if it turns out that it was false. No person is expected to make a statement about a fact as to which he made no inquiry to ascertain its truth of falsehood. If he is so foolhardy as to maintain that what he is saying is true without any evidence in his possession, he must pay the price for his negligence and indiscretion, should it later turn out that what he asserted was false and thus misled others. This last proposition does not apply if the person after making due inquiry in proper quarters where he must make inquiries and approaching those who are likely to know the facts makes a statement believing it to be true, he is then saved even if he was himself misled by others from whom he inquired. The gravamen of the charge is a deliberate misrepresentation of a fact knowing it to be false or not believing it to be true or being so indifferent to truth as not to care what is said is false or true.

Judged from this standard it is clear that the Ministers cannot be said to have acted without due care and attention. They had the statement repeated twice in their hands and even confirmed after the event in radio version. They had no reason to think that what they were being told was perhaps not true.

Coming as it did from the highest authority the State—on a matter which is essentially a State subject they did not go beyond the bounds of truth or propriety when they relayed the information to this august House. As situated on the morning of the 29th of this month the Ministers were assured of the truth of what they relayed to the House. In these circumstances no question of privilege arises and I refuse my consent to raise it".

5. The matter was, thereafter, closed.

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RAJYA SABHA
(1980)

Point of privilege

Alleged misleading statement made by a Minister in the House

Facts of the case and ruling by the Chairman

On 8th July, 1980, the Minister of Home Affairs

(Giani Zail Singh), while making a statement in the House regarding the alleged rape of a woman at Baghpat, referred to the report of medical examination of the woman and stated, *inter alia*, as follows:—

“Unless it is proved that the lady has been raped or not how can we punish anybody? This is the medical report. In this report the doctor has not held that any rape was committed on her.”

2. On 6th August, 1980, the Chairman (Shri M. Hidayatullah), while disallowing a notice of question of privilege by Shri Satya Pal Malik, a member, against the Minister of Home Affairs for allegedly making a misleading statement in the House, observed, *inter alia*, as follows:—

“The notice of a privilege motion given by hon. Shri Satya Pal Malik on 23-7-1980 refers to a statement made by the hon. Home Minister in the House on the 8th July, 1980... The privilege motion avers that the statement made by the hon. Minister was false and deliberately misleading.

As the motion relates to the statement of the 8th July, 1980.... it is sustainable only on one of the three grounds, namely:

- (1) that the Minister made a statement which he knew was false; or
- (2) That he made a statement which he did not himself believe to be true; or
- (3) That he made the statement without due care and attention and negligently asserting something as true which turned out to be false.

The matter has been judged in this light as on 8th July, 1980. Mr. Malik's later inquiries and researches and their results do not enter into this question. As the hon. Minister was not an eyewitness to the alleged rape or to the examination by the doctor, he could have only spoken on the statement of facts in his possession as on the 8th July, 1980 or before.

We must judge the *bona fides* of his conducts only on this footing and the privilege motion itself is based on his conduct and *bona fides* as on a particular date.

In accordance with the established practice, the motion was drawn to the attention of the hon. Minister for his comments before I took any decision. In reply to my query, the Home Minister only gave the contents of the report as he had with him and volunteered, perfectly *bona fide*, that he would ‘make further inquiry’.

The matter thus boils down to this: what were the

contents of that medical report on which the statement was based? And in reply to my query, the Hon'ble the Home Minister said:

‘The medical report dated 18th June, 1980 referred to by Shri Satya Pal Malik is not with us. We have another medical report of 18th June, 1980, a copy of which is enclosed. We have asked Government of Uttar Pradesh to verify the authenticity of the report sent by Shri Malik....’

Therefore, as late as 26th July, 1980 there was but one report before the Hon'ble the Home Minister and that did not make a reference to rape or even a probable rape... This report was furnished by Dr. N. Pant, Medical Officer, Women's Hospital, Meerut; on examination at 7-15 p.m. on 18th June, 1980.

On 26th July, 1980 Dr. N. Pant, in reply to a query by the District Magistrate through the Senior Medical Superintendent, Women's Hospital, stated: ‘I have to say that I conducted’—which is a mistake; it should be ‘I gave’—‘no other report dated 18.6.1980 on Shrimati Sudesh, other than the report, a copy of which has already been submitted by me today at 11 a.m....’

These facts were communicated to me on 28th July, 1980 by the Hon'ble the Home Minister. He again asked me ‘to request the Hon. member about the source and authenticity of the report produced by him.’

It appears that the lady was later sent to P.L. Sharma Hospital and from there to the Dufferin Hospital and the Dufferin Hospital referred her again to Dr. N. Pant. She examined her again on 19-6-1980, that is, the next day, at 9 a.m. The second report thus came into existence on 19-6-1980 at 9 a.m. In this second report Dr. N. Pant said:

‘Vaginal injury noted by me yesterday, in my opinion, is probably a rape injury.’

Therefore, there were two reports, one dated 18-6-1980 and the second dated the next day, that is, 19-6-80.

Leaving out of account the word ‘probably’ which makes the subject of rape an open issue still, the second report was not brought to the notice of the Hon'ble the Minister on or before 8th July, 1980.

We are not concerned with the knowledge acquired by the Hon'ble Malik, on his private inquiries. In fact, I was first shown a copy of the report in which the word ‘probably’ figured and about which I made

a comment that this is not a definite opinion.... However, the next day I was given a copy of the report in which the opinion of the doctor was made to read: 'In my opinion it is a case of rape.'

I do not agree with Mr. Malik that these changes were not of any consequence... When on the 23rd it was already said that the opinion was that 'This is probably a case of rape' written in the notice itself. On the 24th the word 'probably' could only have been dropped to make rape more of a certainty.

The statement of the Hon'ble the Minister as of 8th July 1980 was, therefore, made *bona fide* based on the information then in his possession."

* * * * *

"I am not deciding whether there was rape or not. I have only to decide whether the hon. the Home Minister's statement was false and misleading in all the circumstances of this case.

Whatever may be the later developments after 8th July 1980, the question for me to consider is whether the Home Minister wilfully misled the House on that date. It is clear from the records that what the Minister stated in the House was based on the information in his possession which had been supplied to him by the Government of U.P. and which did not mention about rape and he had no reason to doubt it. Thus he has not misled the House wilfully or otherwise. I have fully explained the reasons for the decision because of the tension this unfortunate incident has evoked in the House and outside. I am not concerned with the facts as they later emerged or may further emerge. I am only concerned with the statement of the Home Minister on 8th July, 1980.

Basing myself on this fact I withhold consent to Shri Malik to raise the matter as a matter of privilege or contempt of the House as in my opinion not even a *prima facie* case has been established."

The matter was, thereafter closed.

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(RAJYA SABHA)
(1981)

Point of privilege

Alleged misleading of the House by a Minister and alleged casting of reflections on the Minister by a journalist

Facts of the case and ruling by the Chairman

On 11th September, 1981, the Deputy Chairman (Shri Shyam Lal Yadav) informed the House *inter alia* as follows:—

'Hon. Members I have just received a ruling from the Hon. Chairman on the privilege issues..... I am reading the ruling delivered by the Hon. Chairman on his behalf.

On September 2, 1981 the Finance Minister Shri R. Venkataraman, while replying to a Calling Attention, regarding reported irregularities in the matter of grant of Income tax exemptions to certain trusts in Maharashtra, made clarificatory statements. Notices of Breach of Privilege were received from the hon. Shri L.K. Advani, Shri Shiva Chandra Jha, Shri Ramakrishna Hegde, Shri Satyapal Malik and Shri Nageshwar Prasad Shahi in respect of the said statements stating that the Minister had deliberately misled the House. The matter related to the establishment of a trust called the Pratibha Pratishtan which was later described as the Indira Gandhi Pratibha Pratishtan. The question, in addition to the way the trust was operated, led to a question whether the Prime Minister had consented to the use of her name in the name of the Trust and had herself inaugurated it.

In his clarificatory statement Shri Venkataraman stated as follows:—

'Now what happened in this case was that the Chief Minister said that he wanted to establish a Pratibha Pratishtan, which would do all sorts of services, being an El Dorado into the world to help the poor people, serve the poor people, help everybody and so on. What she agreed to was that pratishtan should be established, and not that her name should be associated with it and when she came to know about it, she asked them to withdraw her name. Therefore, there is no question of her having called them to associate her name with these things.'

He also said, as he put it later in his reply to me, 'I had also stated that the Prime Minister did not inaugurate the Trust.'

These two facts were stated to be misleading.

On September 4, 1981, the 'Indian Express' reproduced a photograph obtained from the Directorate of Information, Government of Maharashtra, which was printed alongside a signed item from Shri Arun Shourie, Executive Editor, which carried the heading 'Petty little lies in

Parliament'. Shri Shourie charged Shri Venkataraman with having told lies and challenged him to bring a privilege motion against him, i.e. Shri Shourie. The first set of Privilege Motions referred to these items, some enclosed cuttings and some said that evidence was in their possession.

A second set of notices of breach of privilege was received from the hon. Shri P. Ramamurti, Shri A.G. Kulkarni, Shri Dinesh Goswami and Shri N.P. Shahi between 4 and 7 September, this time against Shri Shourie.

According to the practice of the House both the sets were sent respectively to Shri Venkataraman and Shri Shourie for their comments. Both these were replied. Shri Shourie in his detailed comments running into 23 pages referred to a number of annexures from 'Sakal', 'Lok Satta', 'Lok Rajya' and 'Sunday Standard'. These he contended nailed the lies of the Finance Minister. I shall deal with the two sets of notices separately but I shall refer to the whole of the material produced before me including one more exhibit from the 'Indian Standard' which came before me on 9th September, in the following way.

Shri L.K. Advani sent two letters of even date (9th September, 1981) in continuation of his notice originally given and pointed to some additional matters including another cutting from the 'Indian Express' of 7th September, 1981.

The charge that the Minister misled the House is based on:

- (a) A photograph showing the Prime Minister signing a document with the Chief Minister, Maharashtra, looking on with a caption under the photograph.
- (b) The contents of that document.
- (c) A photograph showing the Prime Minister addressing a gathering of members of the Maharashtra Assembly with its caption in the 'Indian Express' of 7th September, 1981.
- (d) The accounts published in the newspapers of the happenings of the 11th October, 1980, the date to which the photographs relate.

Before I decide whether to give consent or not I wish to clear some points of procedure. In every case in which the Chairman does not reject the notice at the very threshold, the comments of the person charged with the breach or contempt, as the case may be, are obtained to see whether consent should be given or withheld. This is decided by linking at the

allegations and the comments together. The first stage is the *prima facie* stage. The expression is misunderstood as relating to the second stage. The person moving for consent must *prima facie* (at first appearance) make a case sufficient to call for an answer. When the first stage is passed, what has to be looked for is *prima facie* evidence which must be sufficient to establish a fact. But if the explanation destroys the *prima facie* case or the evidence is completely insufficient or inconclusive, consent may be withheld. It must, however, be a clear case of a self evident situation.

Next I must remind the hon'ble members of what I said on 6th August, 1980, that a charge of this kind is only sustained on one of three grounds, namely:

- (1) That the Minister made a statement which he knew was false; or
- (2) That he made a statement which he did not himself believe to be true; or
- (3) That he made the statement without due care or attention and negligently asserting something as true which turned out to be false.

I have adverted to these matters of procedure etc. because from the discussion in the House as I have seen in this case it appeared that the contenders thought that I was merely to send the notices and the comments without seeing for myself whether consent can be properly and truly given in this particular case.

Coming now to the comments of the Finance Minister, I shall deal with the two allegations against him separately.

I. Re: the consent to the name of the Prime Minister

There is no document, letter or other in which this consent was given or asked for, except the document the Prime Minister is signing as shown in the photograph. The document mentioned the name of the Trust as 'Pratibha Pratishthan, Maharashtra'. There was no mention of the new name or that the old name would be changed. Ordinarily there is a letter of request to associate the name of the President or Prime Minister and there is a specific or categorical reply. There is none in this case. Looking at the photograph and the document (now produced) one finds no mention of a consent to a change of name. The heading also does not change the name. There is the signature and the place Bombay and

date and no other writing in hand. The heading reads:

Pratibha Pratishthan, Maharashtra brobar Sahabhagi houvas male atiyashe anand ahe'

(Sd. Indira Gandhi))

Now the crux of the matter is what was the special fact that the document conveyed? It was a document which anyone could have signed, be he a Minister, a banker, a businessman, an MP and even an editor without his name going into the title of the Trust. More than one such document could be signed by different persons and surely all the names could not be incorporated in the title. One needs a little more than this to reach an absolute conclusion.

Looking to its meaning all the force lies in the word 'sahabhagi'. What did it mean? Shri Advani in his letter to the Secretary General (9th September, 1981) gave the meaning from Prof. Deshpande's Marathi-English Dictionary as 'co-partner'. That meaning hardly fits. Shri Advani himself gave the meaning in his second letter as 'associate'. The word as used only means 'I am with you and I am very happy'. It does not mean 'I agree to my name being used.'

The effect of the photographic representation is brought out by a caption and the future dealings with the trust, such as changing the name, the name in the bank accounts and what not. We have to assume that the Prime Minister knew all this. There is only one letter from the Prime Minister's office, dated June 23, 1981 in reply to the letter of the Chief Minister, dated 7th May, 1981. That was long before this matter in Parliament. In that letter the Special Assistant to the Prime Minister said:

'.....The Prime Minister does not approve of her name being used by the Pratishthan. She desires that the name may be changed even at this stage.'

Now the caption below the photographs showing here affixing her signature was most probably done by the Maharashtra Government.

It could not be the Prime Minister's doing. Otherwise, the letter would not be written in that way. It is asked by Shri Shourie what the Prime Minister was doing from 11th October, 1980 to 23rd June, 1981, when she asked that her name be dropped? If Government machinery moved the speed of an express train, it would be possible, but we know that it does not. The criticism against the Trust

had not built up till lately. It appears that between the P.M. and the C.M. there was a communication gap and one thought that the consent was given and the other was clear that it was not.

II. Whether the Prime Minister inaugurated the Trust?

The reply of the Finance Minister was categorical that she had not. I begin with the last document, namely the photo from the *Indian Standard* reproduced in the *Indian Express* of 7th September, 1981. It was brought to my notice by Shri L.K. Advani. Here again, it is a question of captions. Now the photo in the *Indian Express* of the 7th September has two captions. In the reproduction of the block there is a caption which reads:—

- (1) 'Premier Indira Gandhi addressing Maharashtra Legislators and M.Ps. at Raj Bhavan on Saturday'.

In the photo this is easily read. Below this is another caption which reads:

- (2) 'The meeting of the Congress (I) Legislators on October 11, 1980, at Raj Bhavan, at which Mr. Antulay thanked Mrs. Gandhi for permitting him to name the Pratishthan after her. Express file photograph.'

Shri Shourie in his reply had annexed a photostat of the same photo and it bore the caption No. (1) above. Beneath this photo in the *Sunday Standard* of October 12th, 1980, there is an account of the meeting which the Prime Minister addressed. There is no mention of the Indira Gandhi Pratibha Pratishthan, much less its inauguration. In fact, no trust is mentioned at all. Therefore, the caption No. (2) above is a new thing. The photo is the same but the description of the things done at the meeting is different.

Now, there are news items in the remaining newspapers of which a list is given by me elsewhere. In the *Sunday Standard* (said by Shri Shourie to be of 12th October, 1980) the photo of the signing of the document appears and the caption is:

'Prime Minister Indira Gandhi affixing her signature on the document giving her consent to name the Maharashtra Government's trust for promoting talents in literature and fine arts as "Indira Gandhi Pratibha Pratishthan" at Raj Bhavan on Saturday. Watching keenly is Chief Minister, A.R. Antulay.'

I have referred to this caption common to all newspapers where this photo appeared either in English or its translation in Marathi. There is a news

item which is reported separately when it could be reported with the news item about the meeting held at Raj Bhavan. In this news item it is stated what the trust was to do and this was based on an announcement by the Chief Minister on Tuesday (9th October, 1980). That must have been done at some other function and not the function on the 12th October, 1980.

In the *Sunday Express* of the 12th October, 1980 immediately below the report of the meeting which the Prime Minister addressed is another news item headed:

'Antulay assures P.M. of policy implementation.'

After reporting other matters the news item goes on to say that the Chief Minister announced that the Prime Minister 'had given her consent for naming the proposed trust after her. The "Indira Gandhi Pratibha Pratishthan" would grow very fast. Mr. Antulay said 'I have read both the English and Marathi versions and I feel that Shri Antulay probably spoke in Marathi. If that were so the Prime Minister would not be fixed with knowledge with that move. Even if this was spoken in English, the purport could be missed.

Added to these are the following incontrovertible facts which the Finance Minister has mentioned. They may be taken from his reply.

- (i) The trust was registered on 18th November and there could be no inauguration before that date;
- (ii) The news item of September 4th, 1981.. does not state that there was inauguration of the Trust on 11th October, 1980;
- (iii) The official programme issued by the State Government in connection with the visit of the Prime Minister to Bombay, 10—12th October, 1980 does not mention the inauguration of the Pratibha Pratishthan.
- (iv) When the document was signed by the Prime Minister there was nobody else apart from Shri Antulay and the photographers present as stated by Shri Antulay in the letter.
- (v) Shri Antulay was trying to have the inauguration on the 19th November, 1980 (P.M.s' birthday) but this could not be held (*vide Indian Express Bombay Edition dated 17th December, 1980*).

To this may be added the last paragraph of Shri Dhawan's letter dated 23rd June, 1981 to which I have referred already. It reads:

'As desired by you, the Prime Minister would be pleased to meet the Trustees of the Pratishthan during her next visit to Bombay.'

All these facts speak for themselves.

I have not expressed any personal opinion, but have gone from facts to facts only. These facts clearly prove that if anybody told a lie it was not the Finance Minister. It is perhaps to be inferred that the Maharashtra Government went too far with so little from the Prime Minister. I accordingly withhold my consent to raise a question of Privilege against the Finance Minister.

III. Shri Shourie's Case

As regards Shri Arun Shourie, I do not think this is a proper case for action Newspapers always look into things closely and critically. They must, however, ascertain their facts better. Although the item is phrased in language which is not high-toned or polite, I am going to ignore it. Arun Shourie was doing a journalistic duty according to his lights. I have said before that the newspapers are the eyes and ears of the public and if every citizen has a right to criticize the actions of others, so also the newspapers whose profession is to turn the light of publicity on the irregularities of public actions. Perhaps the Maharashtra Government itself presented a wrong picture of the events and it is enough to show that Shri Shourie was wrong in his inferences. I must however say that Shri Shourie could have said the same thing in inoffensive language. He went too far because 'he accepted as true which was false and described as lies which were the real facts. I propose, therefore, to let this matter rest in his case. I withhold consent in his case also.'

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RAJYA SABHA

(1983)

Point of privilege

Alleged misleading of the House by a Minister

Facts of the case and ruling by the Chairman

On 8th December, 1983, the Chairman (Shri M. Hidayatullah) observed as follows:—

"On November 17th, 1982 Shri Satya Pal Malik gave notice of breach of privilege against the Minister of Finance, Shri Pranab Mukherjee,

for having deliberately misled the House in his reply to Unstarred Question No. 110 answered in Rajya Sabha on November 15th, 1983 regarding investments by non-resident Indians in the Reliance Textile Industries Limited.

This notice was presumably based on certain press reports to the effect that some of the companies mentioned by the Minister in his replies to questions in the House in July-August did not exist in U.K. on the date when permission was given to them by the RBI to invest in the Reliance Textile Industries Limited. I had referred the matter to the Minister for his comments. The Minister admitted that there was inaccuracy in describing the place of incorporation of those companies. The companies were incorporated in the 'Isle of Man' and not in U.K. This unfortunately caused some confusion and resulted in Shri Satya Pal Malik raising a breach of privilege issue. The Minister also corrected this in his replies to earlier questions on the subject by laying a correcting statement on the Table of the House on November 22nd, 1983. I, therefore, did not consider that there was any intention on the part of the Minister to mislead the House and withheld my consent to the raising of the question as a breach of Privilege."

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RAJYA SABHA

(1987)

Point of privilege

Alleged misleading of the House by the Prime Minister

Facts of the case and ruling by the Chairman

On 20th March, 1987, the Chairman (Shri R. Venkataraman) observed as follows:

"Honourable members, on the morning of March 13, 1987, a certain Delhi-based newspaper published what purported to be the text of a letter written by the President of India to the Prime Minister of India.

Shri Jaswant Singh obtained the permission of the Chair to read in the House a communication addressed by him to the Chairman which *inter alia* sought a clarification on issues which according to him arose as follows:

- (a) The veracity of this purported letter;
- (b) The manner in which the newspaper gained

access to such correspondence between high officers of state;

- (c) Vital questions relating to the security of information and confidentiality of governance;
- (d) The question arising from the Prime Minister having made a statement in Parliament, which the text of the purported letter appeared to refute.

Describing the issue as 'not merely a privilege issue' but one that had constitutional aspects to it, Shri Jaswant Singh appropriately concluded his remarks with the statement the Parliament should do nothing that might bring it in conflict with the office of the Head of State, Sarvashri Gopalsamy and Nirmal Chatterjee were permitted to associate themselves with the observations of Shri Jaswant Singh.

Shri Gopalsamy had earlier sought to raise this matter as an issue of privilege. On being apprised of the relevant rules in this regard, he however, withdrew his notice reserving his right, if any, to raise it again.

I also received, later, notice of breach of privilege against the Prime Minister from Sarvashri Jaswant Singh, Upendra and Lakshman. Shri Jaswant Singh supplied me his view point in regard to interpretation of Article 74 and 78. Shri Upendra again raised the matter on March 17, urging upon me to expedite my ruling.

After hearing their explanations, I informed them that I would go into the matter in depth. I also received on March 19, 1987, a letter signed by Shri Samar Mukherjee and eight other leaders of the Opposition seeking to discuss various issues relating to the matter.

The issues is one in which two of the highest offices under the Constitution are involved. What is more, it concerns a nexus which is at the very heart of governance under the Cabinet system which we have given to ourselves. I have, therefore, felt it essential that such consideration be given in my study to the issues involved as this constitutionally pivotal matter calls for. Having done so, I now proceed to give my ruling.

The first and essential question that arises for consideration is whether any matter communicated or purported to be communicated by the Head of State to the Head of Government and *vice versa* may be raised in the Houses of Parliament. The answer to this question rests on the nature of the relationship that governs the President and the Prime Minister under our Constitution. I shall

attempt such an answer by means of (i) reference to the discussions on the subject in the Constituent assembly; (ii) reference to the relevant conventions in Britain; and (iii) a discussion on the scope of Articles 74 and 78 of our Constitution.

While introducing the Draft Constitution as settled by the drafting Committee in accordance with the decisions of the Constituent Assembly and on the basis of reports of various Committees appointed by it the Chairman of the drafting Committee, who is rightly regarded as the architect of our Constitution, Dr. B.R. Ambedkar made certain important observations on the role of the future Head of the Indian Republic. Dr. Ambedkar said, and I quote:

'Under the Draft Constitution, the President occupies the same position as the King under the English Constitution. He is the head of the state but not of the executive. He represents the nation but does not rule the nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known.'

It was clear that the office of the President of India was to enjoy a unique and special relationship with the Council of Ministers headed by the Prime Minister, a relationship based on inviolable trust. Other eminent jurists like Sir Alladi Krishnaswami Aiyar, who were in the Constituent Assembly, also opined that under the Constitution, the President of India has to go by the advice of the Cabinet.

The decision embodied in the Constitution provided for a cabinet form of Government of the Westminster type with a President as Head of the State and the Prime Minister as Head of the Government, based on conventions as well as the provisions of the Constitution. Herein lay the pith and substance of parliamentary democracy. The people's will is embodied in Parliament, the Parliament, expresses itself through the Cabinet and the Cabinet transacts its business in the name of the Head, namely, the President. One preserves and protects the other, Articles 53 and 74 of our Constitution enshrine this living principle of democratic articulation. Article 53 of our Constitution states that the executive power of the Union is vested in the President, all executive action being taken in his name. The scope of this

executive power has been defined in Article 74 which states that the President has to discharge all his functions in accordance with the advice of the Council of Ministers, which is responsible to the Lok Sabha.

The fact that the Cabinet system of Government has been introduced into the Indian Constitution is universally acknowledged. Another distinguished member of the Drafting Committee of the Constituent Assembly, Dr. K.M. Munshi, said in that Assembly:

'We must not forget a very important fact that during the last one hundred years Indian public life has largely drawn upon the traditions of the British constitutional law. Most of us, and during the last several generations before us, public men, in India, have looked up to the British model as the best. For the last thirty or forty years, some kind of responsibility has been introduced in the governance of this country. Our constitutional traditions have become Parliamentary...'

The Supreme Court of India in its Judgement in *Ram Jawaya versus the State of Punjab* upheld the principle of the President-Cabinet relationship and Justice Mukherjee clarified therein as follows:

'The President has thus been made a formal or constitutional head of the executive and the real executive powers are vested in the Ministers of the Cabinet.'

In this context, I turned to the practice in the House of commons to see if the conventions of that Parliament made room for a discussion on issues such as the one at hand. A set of relevant queries was posed to Sir Kenneth Bradshaw, Clerk of the House of Commons, on the subject. The answers are revealing. To a question as to whether correspondence between the Queen and the Prime Minister is confidential and whether it is ever debated in the House, the Clerk of the House of Commons has replied that the correspondence 'is confidential and never debated.' The position as obtains in the House of Commons showed that the only occasion in this century when discussions between the Monarch and the Prime Minister were shared with the British Parliament was during the course of a substantive debate of a legislative nature, namely, on the Abdication Bill, 1936.

Again, in the recent matter of the reported 'Leaking' of the Queen's private opinions on the subject of sanctions against the pretoria regime. The

Clerk of the House of Commons was asked if any discussion took place in the House of Commons. He has replied that 'no debate took place in the House of Commons and no questions were tabled.' The British Prime Minister, Mrs. Margaret Thatcher, refused to answer supplementary questions relating directly or indirectly to the Monarchy.

It has been feebly suggested that under Article 74(2) only questions relating to the advice tendered by the Council of Ministers to the President shall not be enquired into by any court and that since the Parliament is not a court of law, Parliament is entitled to enquire into it. Such a contention will lead to illogical conclusions as follows: Firstly, the confidentiality between the President and the Prime Minister cannot be looked into by courts but can be looked into by Parliament and other institutions. This conclusion would negate the very principles of confidentiality of communication between the President and the Prime Minister. Secondly a literal construction of this kind would mean that only advice tendered by the Council of Ministers to the President shall not be enquired into but that the reverse process, namely, advice tendered by the President can be made public by the Council of Ministers. Under the conventions of our Constitution, the President is in the same position as the Monarch of England and has the same right to encourage, to warn and offer counsel to the Ministers, even though he is bound to accept the advice of the Council of Ministers. It would be absurd to suggest that the Council of Ministers can disclose such advice. Occasions may arise when the President's wise counsel may be against some popular emotions of the time and if the President's advice is publicised the office of the President will get discredited.

It is, therefore, of the utmost importance that the confidentiality of communications between the President and the Prime Minister is maintained in the larger interest of democracy and the nation.

It was suggested that under Article 105 of the Constitution the freedom of speech in Parliament entitled hon. members to discuss any matter regardless of confidentiality. But the Article itself states 'subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.'

Rule 238 of the Rules of Conduct of Business of the Rajya Sabha prohibits the use of President's

name for the purpose of influencing the debate. There are several precedents in our Parliament where reference to the President's personal opinion or even letters from the President to the members have been barred from discussion in the House.

This House is also aware of the well known difference of opinion between the first President of India, Dr. Rajendra Prasad, and the first Prime Minister of India, Shri Jawaharlal Nehru, on the subject of the Hindu Code Bill. It may be of interest to hon. members to know that a certain 'leak' of correspondence occurred then also. Dr. Prasad noted in his diary which has since been published:

'I received two letters from the Prime Minister in reply to my letter and the note on the Bill. In one he had expressed pain and surprise over the fact that even though he received the letter at 3 p.m.' he had heard that newspapers had been talking about it at 1 p.m. to the members of Parliament, saying that the President had written a strong letter to the P.M. on the question of the Hindu Code Bill'.

'My letter was marked *Top Secret* and the information might have probably leaked out from my Secretariat. In the second letter he referred to the fact that I had indicated my views on the Bill and also that I intended to send a message to Parliament that even after it passed the Bill I would have to see whether it would be proper for me to give my assent to it. This was an important Constitutional matter on which the President, on the one hand, and the Government and the Parliament, on the other, may become involved in a serious controversy. The Prime Minister was of the view that the President does not have the power to send such a message to the Parliament, nor does he have the right to reconsider the Principles of a Bill submitted to him for assent. He also wrote that the Government had decided that only that part of the Bill be passed which concerns marriage and divorce. He has given his views also on the other clause of the Bill. I was surprised at the first letter and I have started making enquiries about it....'

I have quoted this record in some length only to show the degree of importance that the very first incumbents of these two high offices in our country attached to the inviolability of their mutual

communications. The pain and surprise of the then Prime Minister was matched by the anguish of the then President at the violation of the inviolable communications.

In view of the express provisions, background, philosophy and provisions of the Constitution, the corroborative position in the House of Commons, and the evolution of conventions in this regard, I do not consider that any case has been made out requiring me to permit the charge of breach of privilege being laid against the Prime Minister or permitting any discussion on the issue on the floor of the House. Moreover, I am conscious of the fact that our decisions today will shape the future of constitutional governments in India. This Chair will only be fulfilling its sacred trust if, in disregarding the heat of the passing moment, it adheres to the path charted for it by the framers of our Constitution. I, therefore, disallow the requests for any discussion in any matter on the subject."

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**RAJYA SABHA
(1987)**

Point of privilege

Alleged misleading of the House by the Prime Minister

Facts of the case and ruling by the Chairman

On 12th May, 1987, the Chairman (Shri R. Venkataraman) observed as follows:—

"On April 30, 1987, I had announced in the House that I had received a notice of breach of privilege signed by Shri L.K. Advani and others (Shri K. Mohanan, Shri Nirmal Chatterjee, Shri Satya Prakash Malaviya, Shri Chitta Basu, Shri P. Uppendra, Shri J.P. Goyal, Shri Gurudas Das Gupta, Shri Nager Saikia and Shri Jagjit Singh Aurora) against the Prime Minister in respect of his statements made in the Rajya Sabha on 28th April, 1987, to the effect that while finalising the deal relating to the Swedish Howitzer guns, Government had secured a confirmation from the Bofors Arms Company as well as from the Swedish Government that there would be no middlemen in the deal.

These statements are sought to be objected to by the members as misleading on the basis of remarks purported to have been made by the Minister of Foreign Trade, Swedish Government, at her press conference on April 29, 1987. The Minister is reported to have said that the late Prime Minister Mr. Olof Palme

had only conveyed the assurances from Bofors to the Indian Prime Minister Shri Rajiv Gandhi, and that there were no assurances on behalf of the Government.

I had referred the notice to the Prime Minister for his comments. The factual position relevant to the issue under consideration was conveyed to me as under:—

On 18th April, 1987 (10 days before the Prime Minister's intervention in Rajya Sabha), the Ambassador of Sweden to India sent a signed Aide Memoire reproducing the following statement of 17th April, 1987, by the Under Secretary of State for Economic Affairs in the Ministry of Foreign Affairs of the Royal Swedish Government:

"The Prime Minister of India, Mr. Rajiv Gandhi, demanded himself in talks with Mr. Olof Palme in the autumn of 1985 that one of several conditions for Bofors in order to get the Howitzer contract would be that the Company eliminated all possible middlemen. The contract was to be made up directly between Bofors and the Indian Defence Ministry.

The Company declared in the autumn of 1985 to Representatives of the Swedish Government that no middlemen existed and that the Company was negotiating directly with the Indian Defence Ministry. This was transmitted by Mr. Olof Palme to Mr. Rajiv Gandhi in a personal talk in January of 1986."

A press statement issued by the Royal Swedish Government on 29th April, 1987, as transmitted by the Swedish Embassy in India on that day, stated as follows:

'An important question during the negotiations for a contract between the Bofors and the Indian Defence Ministry was the request of the Indian Government that the Howitzer deal should be concluded directly between the parties, without middlemen. This question was also raised in talks between the Prime Minister Mr. Rajiv Gandhi and Prime Minister Olof Palme. In January of 1986, Prime Minister Olof Palme informed Prime Minister Rajiv Gandhi that Bofors have declared, it wished to conclude the business directly with the Indian Defence Ministry, thus without any middlemen. Bofors also wrote directly to the Defence Ministry in

March, 1986, stating that no middlemen would occur in the transaction.

There was no official reconfirmation of the Swedish position in the previous week (Monday, 20th to Sunday, 26th April, 1987).'

In his statement before Parliament on 28.4.1987, the Prime Minister stated, 'I talked to Mr. Olof Palme — I think it was in December, 1985, if I remember rightly, though I do not remember the date precisely but it will be on the records of the House — and he confirmed back from Bofors. Bofors told the Swedish Government that there are no middlemen.' If the Swedish Minister for Foreign Trade referred to this in her purported statement that 'Olof Palme merely conveyed the assurance from Bofors' there is no contradiction.

The Prime Minister of India had a second meeting with Mr. Olof Palme in New Delhi in January, 1986. The Prime Minister in his statement before the House said and I quote. "Then in January, 1986 Prime Minister Olof Palme told me that there are no middlemen.' Obviously the Swedish Minister for Foreign Trade has no personal knowledge of the conversation that took place in January, 1986 at New Delhi between the Prime Ministers of India and Sweden and therefore the purported statement, namely 'late Olof Palme merely conveyed the assurance from Bofors' cannot be accepted as a contradiction of what the Prime Minister said about the meeting in January, 1986.

It has therefore not been established that the Prime Minister made an incorrect statement in this regard on 28.4.1987.

The statement dated 28.4.1987 before Rajya Sabha is consistent with the Aide Memoire presented by the Swedish Ambassador on behalf of his Government on 18.4.1987.

The second contradiction cited by Shri Advani and others relates to the Prime Minister's statement 'the Swedish Government has told as recently about a

week or ten days ago before the debate in the House that there are no middlemen as confirmed by Olof Palme to me and that Bofors have reconfirmed this to them. 'Shri Advani and others rely on the purported statement from the Swedish Minister for Foreign Trade, namely. 'we have not reconfirmed it last week' in order to contradict the Prime Minister's version.

The statement of the Prime Minister refers to the Aide Memoire dated 18th April, 1987, and this is borne out by the reference to the 'week or ten days'. It should be noted that the Aide Memoire was on 18th April, and the Prime Minister's statement in the Rajya Sabha was on the 28th April, exactly ten days before the statement in Rajya Sabha. The Prime Minister's statement does not say that there was reconfirmation from the Swedish Government between 20th to 26th April, 1987, which is the period referred to by the Swedish Minister for Foreign Trade.

According to Kaul and Shakhder, Third Edition, page 234, 'in order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. A breach of privilege can arise only when the member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly'. In view of the fact that the first part of the Prime Minister's statement is based on the Aide Memoire, and official document from the Swedish Embassy and the second part that "Prime Minister Olof Palme told me that there are no middlemen' has not been contradicted by any one with personal knowledge of these talks, the Prime Minister's statement is neither incorrect nor deliberately made to mislead the House.

I therefore, hold that the charge of breach of privilege against the Prime Minister is not sustainable. I withhold by consent to raising the question as a breach of privilege."

MISREPORTING/MISREPRESENTATION

286
LOK SABHA
(1956)

Point of privilege

Misrepresentation of the speech of a Member in the House by a Newspaper

Facts of the case and ruling by the Speaker

On the 28th August, 1956 Shri Frank Anthony, a member, raised a question of privilege regarding misrepresentation of his speech delivered in Lok Sabha on the 25th August, 1956, in a news item appearing on the front page of the *Hindustan Times* dated the 26th August, 1956 under the heading "Indian Railway Amendment Bill Passed".

2. Shri Anthony read the relevant passage from the paper as follows:

"Let it be understood that what stood in the way of the Minister and his Deputy were their 'Physiques' in that both Mr. Lal Bahadur Shastri and Mr. Alagesan are rather short-statured."

3. Shri Anthony argued that he had not used the word 'physique' anywhere in his speech in the House and the placing of this word in inverted commas in the report suggested that it was the actual word that had been used by him, which was totally wrong. He admitted that he had called the Railway Minister 'a good man and a weak man' and also 'a dear good little chap' which he said was an expression of esteem and affection, but he had never suggested that he was not fit to be a Minister because of his stature.

He added that the P.T.I. report of his speech did not contain any personal reference to 'physique' of the Minister and alleged that the whole passage in the *Hindustan Times* was not only false but also mischievous.

4. The Speaker made the following observations:—

"I will consider this matter. Even that day I felt, referring to an hon. Minister here, who is much in advance of age than the hon. member who spoke, as 'little chap' was only to refer to his physique.

There is no doubt that this 'little' means physical appearance. Of course, the very word 'physique' was not used, I agree, as has been said in the report. It need not have been put

there, though it was understood in that way. Any how, I shall certainly look into the matter, because the hon. member takes exception to it. I shall see what ought to be done and what can be done."

5. A letter was addressed to the Editor of the *Hindustan Times* on 6th September, 1956, asking him if he had any thing to say in the above regard.

The Joint Editor of the *Hindustan Times*, in the letter dated the 11th September, 1956, replied that there was no mischievous motive in the news item in question. He, however regretted for any annoyance or embarrassment caused to Shri Frank Anthony because of the use of the inverted commas, which was a slip on the part of the Editorial staff.

6. In view of the regret expressed by the Joint Editor, the matter was closed and the member concerned was informed accordingly.

287
LOK SABHA
(1963)

Point of privilege

Misreporting of proceedings of the House by a newspaper

Facts of the case and action taken by the House

On the 18th September, 1963, the Speaker (Sardar Hukam Singh) informed the House that Shri Ram Sewak Yadav, a member, had written to him that Dr. Ram Manohar Lohia, another member, had said on the 9th September 1963, on the floor of the House that the Prime Minister should not speak in the House in English but the *Indian Express* reported Dr. Lohia as having said that the Prime Minister had no right to speak in any language other than Hindi. The Speaker added that he had written to the Editor of the newspaper who had expressed regret for the mistake. This was considered adequate and the matter was closed.

288
LOK SABHA
(1965)

Point of privilege

Alleged misreporting of the Prime Minister's speech in the House by a newspaper

Facts of the case and ruling by the Speaker

On the 5th March, 1965, Shri Mani Ram Bagri, a member, sought to raise a question of privilege that

on 2 March, 1965, in reply to a question from Dr. Ram Manohar Lohia, another member, the Prime Minister stated, "At present I am speaking in English and will continue to speak in English. But in future I will speak in Hindi", but those remarks had been misreported in the *Statesman*, dated, the 3rd March, 1965, which stated "Mr. Shastri said he would continue in English but would in future speak in Hindi too". Shri Bagri contended that the addition of the word "too" in the newsreport had changed the meaning of the Prime Minister's remarks.

2. The Prime Minister (Shri Lal Bahadur Shastri) explained that it was never his intention that he would not speak in English in future.

3. The Speaker (Sardar Hukam Singh) then observed *inter alia* as follows:—

"If the newspaper has added the word 'too' it is not of such an importance that the privilege of the House has been violated and the House should not take notice of such a trivial matter... Regarding the question of misreporting by the newspaper, if the word 'too' is written there, it does not mean that it has been done *mala fide* and we cannot conclude from this that it was done with malice to project something else. Shri Shastri has also explained. Apart from Shri Shastri's explanation, I feel that if they have written this, there was no *mala fide* or prejudice on their part and the House should not take notice of this. I do not give my consent to raise the matter."

289

LOK SABHA

(1965)

Point of privilege

Misreporting of the proceedings of the House by a newspaper

Facts of the case and action taken by the House

On the 7th May, 1965, Shri Kishen Pattnayak, a member, sought to raise a question of privilege arising out of a newsreport appearing in the *Times of India*, dated the 5th May, 1965. Shri Pattnayak complained that during the discussion on the Finance Bill, 1965, Dr. Ram Manohar Lohia and Shri Bishen Chander Seth, members, had made certain allegations against the Minister of Finance, Shri T.T.

Krishnamachari, and the latter, in his reply on the 4th May, 1965, while obviously referring to Shri Seth said 'He seems to be an innocuous person—I think a very tame and innocuous person. Somebody must have put him to do it. The *Times of India* had misreported it as, 'the fact that neither Dr. Lohia nor Mr. Bishen Chander Seth, both of whom had made personal references to the Finance Minister, was present in the House to hear his reply could mean that somebody must have put them to do it.'

2. The Speaker (Sardar Hukam Singh) then informed the House that the Editor, *Times of India* who was asked to explain, had stated:—

"The Finance Minister did not refer to anybody by name, but the two persons who had made personal references to him were Dr. Lohia and Mr. Bishen Chander Seth. Our Parliamentary Correspondent wrote his impressions of the proceedings in the *bona fide* belief that he was being objective. In any case we have no hesitation in offering our sincere regret which may kindly be accepted."

The Speaker added that in view of the regret expressed by the newspaper, the matter might be treated as closed.

290

LOK SABHA

(1966)

Point of privilege

Alleged incorrect reporting of a member's speech by a newspaper.

Facts of the case and ruling by the Speaker

On the 6th May, 1966, the Speaker (S. Hukam Singh) informed the House that on the 3rd May, 1966, Sardar Kapur Singh, a member had given notice of a question of privilege regarding publication of an alleged factually incorrect report and comment on his speech made in the House on the 27th April, 1966 by the *Statesman*, in its issue dated the 28th April, 1966 and the matter was referred, under his directions, to the Editor of the *Statesman*, New Delhi, for stating what he had to say in the matter.

2. The Speaker then read out the following reply received from the Editor of the *Statesman*:—

"Mr Kapur Singh's letter correcting our story appeared in the Calcutta edition of the *Statesman* on May 3 and in the Delhi edition on May 4.

We hope that Mr. Kapur Singh will be satisfied with the fact that his letter was published without any avoidable delay, considering that he posted it on 28th and it had to be sent to Calcutta also. But it remains for me to assure the hon. Speaker that no disrespect was intended either towards the House or Mr. Kapur Singh.

What our news story attempted to bring out was that members' interest in the Home Minister's statement was less pronounced during the debate than while Mr. Nanda was speaking.

Mr. Kapur Singh confirms in his letter that he used only one sentence at the start of his speech, with reference to Mr. Nanda's statement. The use of the word "altogether" by us was factually incorrect and is regretted. But it will be seen that the sense of Mr. Kapur Singh's speech or any other member's has not been misrepresented in any way."

3. The House agreed to the suggestion made by the Speaker that in view of the explanation received from the Editor, the matter be treated as closed.

291

LOK SABHA

(1966)

Point of privilege

Alleged misreporting about the activities of Minister of Planning in Washington by P.T.I.

Facts of the case and ruling by the Speaker

On the 13th May, 1966, Shri H.V. Kamath, a member, sought to raise a question of privilege against P.T.I. for circulating allegedly incorrect news report about the Minister of Planning that he had sought an agreement of the President of the World Bank about his statement to be made in Parliament. Shri Kamath cited the cases of the *Indian Nation* and the *Statesman* where publication of certain reports therein had been taken notice of by the House.

2. The Speaker (S. Hukam Singh) observed that he would ask the P.T.I. in the first instance to state what they had to say in the matter.
3. On the 26th July, 1966, the Speaker informed the House that he had received a reply dated the 18th May, 1966, from the General Manager of the P.T.I., which *inter alia* was as follows:—

"Mr. Kamath's motion apparently arose from certain portions of two despatches sent to us from

Washington by our correspondent covering Mr. Mehta's visit to the U.S.A. and Canada..... The relevant portions are reproduced below:—

- (1) In a despatch dated May 5, our correspondent said:

'Before Mr. Mehta leaves for India he and Mr. Woods are scheduled to meet again tomorrow when they are expected to decide upon what exactly could be said by both by the Bank and by Mr. Mehta when he returns to India and reports to Parliament. In order to avoid further misunderstandings perhaps this will also have to be cleared with President Johnson who is now in Texas and will return to Washington only on Tuesday next.'

- (2) In his second despatch dated May 6, our correspondent said:

'Before he left for New York today Mr. Mehta again met Mr. Woods when the two agreed upon the formulation of their understanding and what exactly Mr. Mehta could say when he makes his statement in Parliament about the Bank's position regarding its assistance to India.

Before Mr. Mehta makes his statement in Parliament next week he should have clearance from the White House about what he could say on the American position'.

I wish to draw your particular attention to the phrases 'about the Bank's position' and the 'American position' in quotation No. 2 above.

You may recall that when the question of privilege was first raised in the House on May 12, Mr. Mehta in a clarificatory statement had explained the position in regard to his last-minute consultations in Washington in the following words:—

'As the members are aware the purpose of my visit was to hold discussions with Mr. Woods, the President of the World Bank, and the President and senior officials of the United States Government. The object of my discussions was to ascertain the nature of support that could be expected for the fourth Five-Year Plan from the countries of the Aid India Consortium. Owing to the important nature of these discussions it was incumbent on me to share with them that part of the record of our discussions which represented the views and the statements made by the World Bank President and the U.S. Authorities.

It is necessary to do so in order that there could be no misunderstanding later as to the precise indications given to me by the World Bank President and the U.S. authorities. These will naturally from part of the statement that I propose to make tomorrow in the House. All that I sought to do before leaving Washington, was to ensure that in my statement to the House I faithfully report, both in letter and spirit the nature of indications given to me by the World Bank President and the U.S. authorities.'

The P.T.I. only reported briefly what Mr. Mehta himself said five or six days afterwards. I hope, therefore, that the finding in our case will be that there has been no breach of privilege on our part in circulating the two despatches.

Disallowing the question of privilege, the Speaker observed *inter alia* as follows:—

"A breach of privilege or contempt of the House arises if there is a misreporting or misrepresentation of the proceedings of the House or of the speech of a member in the House. Thus, in order to be a breach of privilege or contempt of the House the alleged misreporting or misrepresentation of a member must relate to his speech or conduct in the House.

The cases of publication of certain reports in the *Statesman* and the *Indian Nations*, referred to by Shri Kamath while raising the matter in the House, are not applicable in the present case as these cases related to alleged misreporting of the proceedings of the House and attributing a statement to the Minister of Home Affairs containing adverse comments on the Report of a Parliamentary Committee, namely, the Report of the Public Accounts Committee on the Bharat Sewak Samaj, respectively.

I, therefore, feel that no question of breach of privilege or contempt of the House arises against the P.T.I. in the present case.

The matter may, therefore, be treated as closed.

Point of privilege

Ignoring the name of a member while reporting the proceedings of the House by a newspaper.

Facts of the case and action taken by the House

On the 17th May, 1966, Sardar Kapur Singh, a member complained that while reporting the debate on Orissa famine held in the House on the 11th May, 1966, the *Indian Express* had mentioned the names of all the members who participated in that debate but it had completely excluded the name of Shri H.N. Mukerjee, another member, in its newsreport. The member contended that the newspaper had deliberately created false impression about the proceedings held in Parliament and it amounted to breach of privilege of the House.

2. The Speaker (S. Hukam Singh) then informed the House that the Editor of the *Indian Express*, who was asked to state what he had to say in the matter, had stated in his letter, dated the 14th May, 1966, as follows:—

"On going through the news report in the *Indian Express* referred to by Sardar Kapur Singh, I really would not describe it either as a false report or a report which creates a deliberately false impression about the proceedings in the Lok Sabha on May 11. However, it is true that the report was incomplete because of the omission of a reference to what Mr. Hiren Mukerjee had said.

This is what actually happened: Our Parliamentary Correspondent did refer in his report to what Mr. Mukerjee had said. Unfortunately the Sub-editor who processed the copy at the news desk cut out that portion and several other portions to reduce the length of the story for reasons of space. It was perhaps an error of judgment on his part but I assure you that it was done in good faith. On behalf of the *Indian Express*, I would like to express my sincere regret for this. Kindly convey our regrets to the Speaker and to the others concerned."

3. In view of the explanation and the expression of regret made by the Editor, the matter was closed.

293
LOK SABHA
(1967)

Point of privilege

Alleged misrepresentation of a members's speech and thereby casting reflections on another member by a newspaper

Facts of the case and action taken by the House

On 27th March, 1967, the Speaker informed the House that he had received notice of a question of privilege from Sarvashri Madhu Limaye and George Fernandes, members, against the *Hindustan Times* on the ground that the following report published in its issue dated the 24th March, 1967, was a misrepresentation of the proceedings of the House of the previous day and thereby cast reflections on Shri George Fernandes:

"Mrs. Sinha alleged that the SSP leader, George Fernandes had benefited from CIA sources when he was connected with the Hind Mazdoor Sabha. She conceded, however that he was no longer connected with the HMS."

2. The Speaker (Dr. N. Sanjiva Reddy) observed that as per the practice, he would ask the Editor of the *Hindustan Times* to state what he had to say in the matter before taking up the matter further. The House agreed.

3. On 29th March, 1967, the Speaker informed the House that he had received the following reply, dated the 28th March, 1967, from the Editor of the *Hindustan Times*:—

"We regret the inadvertent lapse in the publication of our report on the Lok Sabha proceedings of March 23, 1967 in respect of Mrs. Tarkeshwari Sinha's reference to the utilisation of CIA funds.

I have inquired into the matter and find that the proceedings do not entirely justify the statement attributed by our Special Correspondent to Mrs. Sinha. In our report she is credited with having alleged the S.S.P. leader George Fernandes had benefited from C.I.A. sources when he was connected with the Hind Mazdoor Sabha. The correspondent, who covered the proceedings, did not reproduce the exact statement made by Mrs. Sinha. His explanation is that he misheard her.

I apologize for any misunderstanding that the

news item may have caused and assure you that the publication was a genuine error."

4. The House accepted the apology tendered by the Editor of the *Hindustan Times* and directed that the letter of apology together with the actual statement made by Shrimati Sinha in the House on the 23rd March, 1967, should be published on the front page of the newspaper in its next issue. This was done by the newspaper in its issue dated the 30th March, 1967.

294
LOK SABHA
(1967)

Point of privilege

Misreporting of a member's speech in the House by a newspaper

Facts of the case and action taken by the House

On 6th July, 1967, Shri C.K. Bhattacharyya, a members, raised a question of breach of privilege against UNI a news agency and the *Indian Express* on the ground that a newsreport published in the newspaper's issue dated the 5th July, 1967, was a misreporting of his speech in the House on the 4th July, 1967.

Shri Bhattacharyya contended that the newsreport indicated his support to *gherao* whereas he had not referred to it at all. This, he felt, constitute a breach of privilege and requested that the matter be referred to the Committee of Privilege for investigation.

2. The Speaker (Dr. N. Sanjiva Reddy) observed, and the House agreed, that as per practice, he would ask the editors concerned to state what they had to say in the matter.

3. On the 10th July, 1967, the Speaker informed the House that he had received replies from both the parties and observed:

"The General Manager and Editor of the UNI in his letter dated the 7th July, 1967, has stated that 'there was no error in reporting nor any reference to *gherao* attributed to Mr. Bhattacharyya' in the news agency report circulated by UNI.

The Editor of the *Indian Express*, in his letter dated the 7th July, 1967, has stated as follows:

"I have gone through the original copy of the UNI Parliamentary report and of the report published by us in our issue of July 5, 1967. Let me say at

once that the mistake is ours. I find that one of our Sub-Editors, while trying to compress the copy for reasons of space, cut out a paragraph and in doing so created the erroneous impression that what Mr. Dange said had been said by Mr. Bhattacharyya. We are genuinely sorry about this mistake. The Sub-Editor concerned has been taken to task. Moreover, we made it a point to publish in our issue of July 7 the PTI report of Mr. Bhattacharyya's complaint which makes it clear that he had not said what had been attributed to him mistakenly in the *Indian Express*.

I convey my apologies both to the Speaker and to the honourable member concerned'.

If the House agrees, the Editor of the newspaper may be asked to publish the correction and his regret in the next issue of the paper¹ and the matter be treated as closed thereafter.

295

LOK SABHA

(1967)

Point of privilege

Misreporting of a member's speech in the House by a newspaper.

Facts of the case and reference to the Committee of Privileges

On 13th July, 1967, Shri P.K. Deo, a member, complained that the *Kalinga* an Oriya Daily of Cuttack, had maliciously misreported, in its issue dated the 5th July, 1967, his speech² in Lok Sabha on the 3rd July, 1967. The English translation of the portions of the newsreport, complained of, as furnished by Shri P.K. Deo, was as follows:

"Demand before the Government to appoint a Commission of Inquiry to inquire into the allegations against members of the Coalition Government.

'Strong demand by Swatantra Leader Raja of Kalahandi, Shri Pratap Keshari Deo in the Lok Sabha.....strong support to the memorandum of Congress representatives.....'

'Our correspondent reports that the top leader of the Swatantra Party and member of Lok Sabha, Shri Pratap Keshari Deo, supported the memorandum submitted by the Congress MPs and MLAs and made a demand for the appointment of a Commission of Inquiry'

This, he felt constituted a breach of privilege.

2. The Deputy Speaker, was in the Chair, permitted Shri P. K. Deo to ask for leave of the House, which he did. As no member dissented, the leave was granted.

3. Shri P. K. Deo then moved, and the House adopted, the following motion:

"That this matter be referred to the Committee of Privileges."

Findings and recommendations of the Committee

4. The Committee of Privileges, in their This Report presented to the House on the 15th November, 1967, reported *inter alia* as follows:

(i) "From the extracts from the speech of Shri P. K. Deo in Lok Sabha, it is seen that he wanted the memorandum submitted by the Congress MPs and MLAs, against the Ministers of the Gantantra Parishad-Congress Coalition Government for the period 1959—1961 to be gone through by the Lok Pal to 'prove the frivolousness of the charges'. The newsreport published in the *Kalinga*, dated the 5th July, 1967, however, stated that Shri P. K. Deo supported the memorandum submitted by the Congress MPs and MLAs and made a demand for the appointment of a Commission of Inquiry"

(ii) "The position in this regard has been stated as follows by May :

'Analogous to the publication of libels upon either House is the publication of false or perverted,

¹ The correction and the regret were published by the *Indian Express* in its issue dated 12 July, 1967.

² The relevant portions of Shri P.K. Deo's speech in Lok Sabha on the 3rd July, 1967 read as follows:—

"I suggest that the Lok pal should be appointed very soon and the first task that should be entrusted to him should be to look into the latest memorandum submitted by the Congress MLAs and MPs against the Ministers of the Gantantra Parishad-Congress Coalition Government for the period 1959 to 1961.

I sincerely want that the memorandum should be gone through and they should look at the *pros and cons* of it. I am quite sure the findings will not only prove the frivolousness of the charges and will explode the myth of the memorandum, but will drive another nail on the coffin of the Congress in my State."

or of partial and injurious reports of debates or proceedings of either House or Committees of either House or misrepresentations of the speeches of particular Members.

So long as the debates are correctly and faithfully reported the orders which prohibit their publication are not enforced; but when they are reported *mala fide*, the publishers of newspapers are liable to punishment.

The following are instances of misconduct in connection with the publication of debates which has been treated as a breach of privilege.

Publishing gross or wilful misrepresentations of particular Members' speeches.

(May's *Parliamentary Practice*, 17th Ed., pp. 118-119.)

(iii) "The Committee considered the explanation submitted by the Editor of the *Kalinga*, wherein he had stated *inter alia* :

'Any misunderstanding caused on that score is sincerely regretted and the undersigned would not hesitate to publish the clarification of Shri P. K. Deo made in the Lok Sabha on 13th July, 1967, explaining the purport of his speech, if it is so directed by the Privileges Committee'."

(iv) "The Committee were not satisfied with the explanation of the Editor of the *Kalinga* and decided that he be asked to publish prominently in his newspaper the correct version of the speech of Shri P. K. Deo in Lok Sabha on the 3rd July, 1967, as pointed out by Shri P. K. Deo while raising the question of privilege in the House on the 13th July, 1967, unequal fied together with his unqualified regret for the wrong impression created by the impugned newsreport published in his newspaper on the 5th July, 1967."

(v) "The necessary correction and his regret were, accordingly, published by the Editor in the *Kalinga*, in its issue dated the 9th September, 1967."

(vi) "The Committee feel that the correction and the expression of regret published by the Editor of the *Kalinga* are sufficient in the circumstances of the case and that no further action is can led for in the matter.

(vii) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

6. No further action was taken by the House in the matter.

296

LOK SABHA

(1968)

Point of privilege

Misreporting of a member's speech in the House by a newspaper.

Facts of the case and action taken by the House

On the 26th August, 1968, Shri Yogendra Sharma, a member, sought to raise a question of privilege against the *Aryavarta*, a Hindi daily of Patna, for allegedly misreporting his speech delivered in the House on the 22nd August, 1968, on the Czechoslovakia crisis.

2. The speaker said that he would look into the matter.

3. On the 15th November, 1968, the Speaker (Dr. N. Sanjiva Reddy) informed the House as follows:—

"The Editor and the Printer and Publisher of the newspaper, who were asked to explain, stated, in their identical letters dated the 4th September, 1968, as follows:—

"That we published.....the speech made by Shri Yogendra Sharma, M.P. in the Lok Sabha on the 22nd August, 1968, as per news report received from the *Hindustan Samachar*—a News Agency—to which we are subscribing.....

That on comparison of the said New Agency report with the relevant news as published in the *Aryavarta* it will appear that the paper published the news without any change or alteration in the original.

That in publishing the news item there was no intention on our part to publish the wrong version and thereby to hurt and harm the honourable member of the Lok Sabha in any way but unfortunately the wrong version was sent to us by the news agency concerned.

That I sincerely regret the publication of the wrong version of the honourable member's speech in *Aryavarta*."

I then asked the *Hindustan Samachar*, the concerned news agency, what they had to say in the matter. The Chief Editor of the *Hindusthan Samachar* in his letter dated the 19th September, 1968, stated, *inter alia*, as follows:—

‘.....We wish to make it clear at the very outset that there was no intention on our part to malign anybody.....’

On going through the report, published in *Aryavarta*, dated 23rd August, 1968, you will find that it is a sort of summary of speeches or a sort of round-up of speeches delivered by honourable members.

We therefore, sincerely request you to take into consideration the time factor—rush and hurry—involved in condensing or summarising these speeches of honourable members. Moreover, we have to keep an eye on the time schedule followed by language papers subscribers, who are in a position to publish only summary or condensed service. In this rush and hurry slight discrepancy creeps in at times without any ‘mala fide’ involved in it.

We sincerely regret for any misunderstanding caused on account of some sort of discrepancy which unknowingly (unwittingly) has crept in the said report published in *Aryavarta*, dated August 23rd, 1968.

On hearing from you, as per your direction, we would be willing to release necessary clarification which will enable removal of misunderstanding caused by the publication of earlier said “summary” report.’

Subsequently, as directed by me, the news agency issued the necessary clarification to all its subscribers on the 28th September, 1968, and the *Aryavarta*, Patna, published the correct version of Shri Yogendra Sharma’s relevant speech, together with its regret for the earlier mistake, in its issue of the 6th October, 1968.

I then had all these papers shown to the Committee of Privileges who have recommended that in view of the clarification issued by the concerned news agency and the correction and regret published by the *Aryavarta*, Patna, the matter may be treated as closed.

I take it that the House agrees.”

4. The House agreed and the matter was closed.

297

LOK SABHA

(1969)

Point of privilege

Misrepresentation of a member’s speech and casting reflections on the Chair by a newspaper.

Facts of the case and action taken by the House

On the 28th July, 1969, Shri T. Viswanatham, a member, raised a question of privilege against the *Hindustan Times*, New Delhi, in respect of an article entitled “The Week in Parliament”, published in its issue, dated the 27th July, 1969, which allegedly misrepresented the speech of a member (Shri M. R. Masani) in the House on the 25th July, 1969 and cast reflections on the Deputy Speaker. The impugned passage in the article was as follows:

“Opposing the (Bank) Nationalisation Bill, Mr. Masani said that the Deputy Speaker had allowed himself to be used by the Prime Minister in presenting the Supreme Court with the accomplished fact of a Bill.”

Shri Viswanatham stated that in Shri Masani’s speech there was not the slightest suggestion involving the Chair.

2. The Deputy Speaker (Shri R. K. Khadilkar) observed that he would, in the first instance, ask the editor of the newspaper to state what he might have to state in the matter.

3. On the 1st August, 1969 the Deputy-Speaker informed the House that he had received a letter, dated the 13th July, 1969 from the Editor-in Chief, *Hindustan Times*, New Delhi, in which he had stated:

“Shri Sen (the concerned correspondent) relied on a summary of the speech made by Shri M. R. Masani on the Banking Companies Nationalisation Bill on July 25 and issued to the press for favour of publication that same evening by the Swatantra Party Parliamentary Office under the signature of Shri A.P. Jain.....It is the summary that the particular reference appears to which objection has been taken. As soon as the matter was raised in the Lok Sabha, we ourselves went through the official record and we have subsequently received a copy of the same with your letter. The official record does not contain the words and phrases that Mr. Sen drew upon from the unofficial summary and on which he relied in good faith. It was not Mr. Sen’s intention in writing his Review, nor ours, in

publishing it, to distort the proceedings of the House or to impute any motives to the Honourable Deputy Speaker in any manner whatsoever.

In the circumstances we deeply regret that we should have unwittingly published something that is at variance with the official record and which casts any reflection on the Chair.

I would request you kindly to convey this explanation to the Honourable Deputy Speaker together with an unconditional apology for the commission of a completely unintended offence."

4. In view of the explanation and the unconditional apology tendered by the Editor-in-Chief of the newspaper, the House agreed with the suggestion of the Deputy-Speaker that the Editor be asked to publish¹ his explanation and the apology on the front page of the next issue of the newspaper and that thereafter the matter be treated as closed.

298

LOK SABHA

(1969)

Point of privilege

Misrepresentation of a member's speech in the House by a newspaper.

Facts of the case and action taken by the House

On the 7th August 1969, Shri Shashi Bhushan, a member raised a question of privilege against the *Indian Express*, in respect of a news-item entitled "Women M.Ps. Pin Down Young Turk", published in its issue dated the 30th July, 1969, which misrepresented his remarks, about another member (Shrimati Sharda Mukherjee) made in the House on the 29th July, 1969. The Chair observed that in accordance with the past practice, the Editor of the *Indian Express* would be asked, in the first instance, to state what he might have to state in the matter.

2. On the 11th August, 1969, the Speaker informed the House that he had received a letter, dated the 8th August, 1969, from the Editor, *Indian Express*, which *inter alia* read as follows:—

"Let me admit at once that our correspondent's report was incorrect in saying that Mr. Shashi Bhushan called Mrs. Sharda Mukherjee a CIA agent. Mr. Shashi Bhushan spoke immediately after Mrs. Sharda Mukherjee, as you will find in your official record. This sequence of events

combined with interruptions, led our correspondent into error.

I say this in explanation of what happened and not in justification of it. I would be grateful if you could convey to the Deputy Speaker our sincere regret for the error."

3. The Speaker observed that in view of the regret expressed by the Editor, the matter might be treated as closed.

The House agreed and the matter was closed.

299

LOK SABHA

(1969)

Point of privilege

Misrepresentation of the proceedings of Lok Sabha by All India Radio.

Facts of the case and ruling by the Speaker

On the 3rd December, 1969, Shri R.K. Birla, a member, made a personal explanation in the House regarding certain observations alleged to have been made by Shri Madhu Limaye another member in respect of the Wool Purchase Mission headed by Shri R. K. Birla. In the course of his personal explanation, Shri R.K. Birla, quoting from the 87th Report of the Estimates Committee of Lok Sabha, which had examined the matter, had concluded that he and his colleagues had been fully exonerated from the allegations made by Shri Madhu Limaye and had in fact been complimented by the Estimates Committee. Shri Madhu Limaye, however, contested the conclusion drawn by Shri Birla from the relevant report of the Estimates Committee and stated that Shri Birla had quoted out of context from the Report of the Estimates Committee and that the Estimates Committee had not exonerated Shri Birla from the allegations made by Shri Madhu Limaye.

2. On 22nd December, 1969, Shri Madhu Limaye, raised a question of privilege regarding alleged misrepresentation of proceedings of Lok Sabha by All India Radio on 3 December, 1969, relating to the personal explanation of Shri R. K. Birla. He alleged that Hindi news bulletin broadcast at 22.35 hours on the 3rd December, 1969, which carried the news item about Shri Birla's personal explanation made in the House that day, did not contain a reference to his (Shri Madhu Limaye's) observations in regard to Shri Birla's personal explanation.

Shri Madhu Limaye also raised a question of privilege against Shri R. K. Birla on the ground that he had deliberately made a wrong statement in the House that he had been exonerated and complimented by the Estimates Committee.

3. the Minister of Information and Broadcasting thereupon, stated *inter alia* as follows:—

"I admit that what should have been reported on the 3rd had been omitted. This is a mistake which I admit. Such a mistake will not re-occur in future."

4. The Speaker, thereupon, observed as follows:—

"The Minister, without any argument, has admitted in an unqualified manner that it was a mistake. He has also expressed his regret. I accept it. The matter may now be closed."

As regards the question of privilege against Shri R. K. Birla, the Speaker observed that it was a purely procedural matter concerning the distortion or misrepresentation of the contents of the Estimates Committee Report and might be brought before the House in some other form.

The matter was thereafter closed.

300

LOK SABHA

(1970)

Point of privilege

Circulation of an incorrect report of proceedings of the House by a news agency

Facts of the case and action taken by the House

On the 10th March, 1970, the Speaker (Dr. G.S. Dhillon) informed the House that he had received notice of a question of privilege on the 9th March, 1970, from Shri Shashi Bhushan against the *Samachar Bharati*, a news agency, for circulating a news report, as published in the *Nav Bharat Times* and the *Hindustan*, dated the 6th March, 1970, wrongly stating that a sitting of the House had been fixed on the 7th/8th March, 1970.

2. The Speaker added that he had subsequently received a letter of apology dated the 9th March, 1970, from the Chief Editor, *Samachar Bharati*, which read as follows:

"I write this to express my deep regret for the release of a wrong news item by our News Agency about the sitting of the Lok Sabha last week.

Our Correspondent reported that the House would observe holiday on Friday, the 6th March,

1970, on account of *Shivratri* festival, but wrongly said that the House would meet on Saturday to dispose of the business originally fixed for Friday. There was no intention to misreport the proceedings, it was a mistake in hearing the announcement.

It may kindly be noted that some time after the release of the earlier item, the mistake was detected by our Correspondent and action was immediately taken to kill the story, Unfortunately, the newspaper which used the original item did not notice the later message sent out to kill the story. In fact the newspaper concerned made another mistake and said that the House would meet on Sunday whereas our story did not say any such thing.

In any case, I express my unqualified apology to the members of the Lok Sabha for the mistake committed by us. Our Correspondents covering Parliament have been asked to be more vigilant so that such a thing does not happen again."

3. The Speaker then observed that in view of the unqualified apology tendered by the Chief Editor of the *Samachar Bharati*, if the House agreed, the matter might be closed.

The House agreed and the matter was closed.

301

LOK SABHA

(1970)

Point of privilege

Alleged misreporting of proceedings of the House by a newspaper.

Facts of the case and ruling by the Speaker

On the 28th April, 1970, Shri Jyotirmoy Bosu, a member, raised a question of privilege against the Editor of the *Northern India Patrika*, Allahabad, for allegedly misreporting his speech in the House on the 30th March, 1970, during the discussion on the West Bengal Budget, in its issue dated the 1st April, 1970. The impugned news report read as follows:

"Marxist member Jyotirmoy Bosu was heard making repeated comments as Mrs. Kripalani was narrating the Marxist atrocities in the West Bengal."

The member's complaint was that his own speech was not properly reported by the newspaper but it had, on the contrary, depicted him as merely interrupting the speech of another member.

2. The Speaker (Dr. G.S. Dhillon) observed as follows:

"As is the practice of this House, I may inform you that we have written to the Editor. When his reply comes we will take it up then."

3. On the 13th May, 1970, the Speaker informed the House that he had received a letter dated 29th April, 1970, from the Resident Editor of the *Northern India Patrika*, Allahabad, which read *inter-alia* as follows:

"We beg to assure the Hon'ble member of the Parliament that we had absolutely no intention or desire to mislead our readers and/or damage the image of the party to which the Hon'ble member belongs or in any way to cast aspersions, whatsoever, on the Hon'ble member.

In the usual course of publication of the newspaper we get reports from the agencies, namely, P.T.I. and U.N.I. Our attempt is to give publicity to the report of the proceedings of the Parliament as far as possible. However, we have our limitations in regard to the space available to us on a particular day. The news item in question printed in the paper, was received through the news agency and we had also sent to the press a summary of the speech delivered by Shri Jyotirmoy Bosu.

However, before the final make up of the page it was found necessary to shorten the matter as the space available was not sufficient to accommodate the report sent to the press. Consequently, in the final make up of the page some portions had to be hurriedly taken out which included the portion of the speech of Shri Jyotirmoy Bosu. This was done unintentionally and without any motive and we sincerely regret if this had given offence to the Hon'ble Member.

* * *

4. The Speaker observed that in view of the explanation and regret expressed by the Resident Editor of the *Northern India Patrika*, Allahabad, if the House agreed, the matter might be closed.

The House agreed and the matter was closed.

302

LOK SABHA

(1970)

Point of privilege

Alleged distortion of a member's speech in the House by a newspaper.

Facts of the case and action taken by the House

On the 1st September, 1970, the Speaker (Dr. G.S. Dhillon) informed the House that he had received notice of a question of privilege from Shri Shiva Chandra Jha, a member, against the *Indian Nation*, Patna, for allegedly publishing a distorted version of his speech in the House on the 12th August, 1970, in its issue, dated the 13th August, 1970.

The impugned news report read *inter-alia* as follows:

"Two members of the Jan Sangh....and another of the S.S.P. Mr. Shiva Chandra Jha, voiced their

strong resentment in the Lok Sabha today against India's action to issue a certificate of identification to former Nepal Prime Minister B.P. Koirala enabling him to go abroad after he had failed to obtain a passport from his own country.

2. Shri Shiva Chandra Jha had, in his notice complained that the *Indian Nation* had distorted his speech as what he had actually said was as follows:

"It is a matter of regret that even the members of Parliament of India consider Nepal as a foreign country and regard a Nepalese as a foreigner. There is a long story of the sacrifices made by Shri B.P. Koirala. It is a matter of regret that he is also viewed differently."

3. The Speaker observed that in reply to a letter which he had addressed to the Editor, *Indian Nation*, Patna, asking him to state what he had to say in the matter, he had received a letter dated the 21st August, 1970, from the Editor which read *inter-alia* as follows:

"The distortion in the report is obvious and we regret it. But it will be released that the report was sent by a responsible news agency namely, the U.N.I. and so at the time of editing, the sub-editor incharge could not doubt its accuracy. We have no hesitation in admitting that such distortions cause a great deal of misunderstanding and should not take place. We shall be glad to publish such contradiction or clarification as is desired."

4. The Speaker added that the Editor of the newspaper had been asked to publish his regret and clarification in his newspaper¹ and that the matter was being treated as closed.

303

LOK SABHA

(1970)

Point of privilege

Misreporting of a member's speech in the House by a newspaper

Facts of the case and action taken by the House

On the 9th December, 1970, Shri P.G. Sen, a member, sought to raise a question of privilege in respect of the following news-item published in the *National Herald*, in its issue dated the 27th November, 1970:—

"Mr. Randhir Singh (Congress) pointed out that of the five members who had voted twice on the Bill, four belonged to Congress (O) and only one to the Congress."

2. While raising the question of privilege, Shri P.G. Sen stated that on the 26th November, 1970, during the discussion on the question of double voting on the Constitution (24th Amendment) Bill, 1970, in the House, Chaudhuri Randhir Singh, another member, had stated as follows:—

"Why has no mention been made in that (minutes of Rules Committee) of five members and why has only one member been mentioned; is it because one belongs to the Ruling Party and the others to the other side."

Shri P.G. Sen alleged that the *National Herald* had deliberately misreported Chaudhuri Randhir Singh's remarks in order to malign and injure his party (Congress-O). He urged that the matter might be referred to the Committee of Privileges.

3. After some discussion, the Speaker (Dr. G. S. Dhillon) observed *inter-alia* as follows:—

"The paper has expressed regret.....I assure you that there is no question of privilege involved here. That is very clear.....I think it is very nice on the part of the paper to have expressed regret. I request honourable member just to agree to my request to accept it and not to prolong this matter."

4. The matter was, thereafter, treated as closed.

304

LOK SABHA

(1972)

Point of privilege

Alleged misreporting of proceedings of the House by a newspaper

Facts of the case and action taken by the House

On the 10th April, 1972, Shri Atal Bihari Vajpayee, a member, raised a question of privilege

¹The regret and clarification was published by the *Indian Nation* in its issue dt. September, 1970.

regarding a news report circulated by the UNI and published in the *Times of India*, Bombay, dated the 5th April, 1972, which purported to report certain remarks stated to have been made by the Prime Minister in the House on the 4th April, 1972, but which were not contained in the Lok Sabha Debates of that date.

2. The Speaker observed as follows:—

"I will see the proceedings, but in the meanwhile I will send it to the paper for verification and comments, according to the practice that we have been following in the House."

3. On the 21st April, 1972, the Speaker informed the House as follows:—

"The Editor of the *Times of India*, Bombay, has informed me that 'the story in question was a UNI news item and we used the item along with many other papers in good faith.' I have also received a letter from the General Manager of the UNI, which reads *inter-alia* as follows:—

"It appears that the correspondent misheard the speech in the laughter and applause interspersing her speech. I regret that this error had crept in. May I assure you that there had been no deliberate attempt to damage the cause or reputation of any individual or party. I hope that this inadvertent lapse would be condoned."

In view of the above explanation and regret, the matter may be dropped. I take it that the House agrees."

4. The House agreed and the matter was closed.

305

LOK SABHA

(1972)

Point of privilege

Misrepresentation of a member's party affiliation by a newspaper

Facts of the case and action taken by the House

On the 17th April, 1972, Shri Ishwar Chaudhry, a member (Jan Sangh party), raised a question of privilege alleging that the *Patriot*, New Delhi, in its issue, dated the 14th April, 1972, had published a report of the proceedings of Lok Sabha, labelling him as a member of the Communist Party of India and had, thus, mis-represented his party affiliation.

2. The Speaker observed that the Editor of the *Patriot* who was asked to state what he had to say in the matter, had in his reply stated that the report in question was a news agency report which they had published in good faith and without any intention to misrepresent Shri Ishwar Chaudhry's political affiliation. The Editor had also expressed his willingness to publish the necessary correction in his news-paper.

The Speaker added that he would ask the Editor of the newspaper to publish the necessary correction in his newspaper.

3. The Editor of the *Patriot* was, accordingly, asked to publish prominently the necessary correction in the matter in the next issue of the newspaper, which he did in the *Patriot*, dated the 15th April, 1972.

Thereafter, the matter was treated as closed.

306

LOK SABHA

(1973)

Point of privilege

Alleged misreporting of the proceedings of the House

Facts of the case and action taken by the House

On the 3rd May, 1973, Shri K.P. Unnikrishnan, a member, sought to raise a question of privilege against Shri Madhu Limaye, another member, the Editor-in-Chief of the *Indian Express Newspapers Ltd.*, Editor *Indian Express*, Bombay, and the Printer and Publisher of the said newspaper, in respect of the following news report published in the *Indian Express* ((Bombay Edition) dated the 30th April, 1973:—

"Mr. Limaye said (in a public meeting at Bombay) that the Prime Minister had a ring of goondas among the M.Ps., who shouted down the Opposition members whenever they rose to speak. This happened even when the Prime Minister herself remained present in the House, he added."

2. Shri K.P. Unnikrishnan stated that by calling the members, *goondas*, Shri Limaye had brought the House into ridicule and had tried to intimidate members which constituted a grave contempt of the House.

3. Shri Madhu Limaye, thereupon, stated that he had made a speech in Hindi and Marathi and not in English and that in his speech, he did

not use the word 'goonda'. He added that he had used the word 'goondai' which had a different connotation.

4. The Speaker then observed:—

"So far as *goonda* is concerned, the facts are denied. He denies it. I am not allowing this privilege motion...so far as that word is concerned, when he denies it....As far as 'goondai' is concerned, I shall see what the meaning is just for my information....We will enquire from the paper."

5. On the 16th May, 1973, the Speaker observed *inter alia*, as follows:—

"..On the 3rd May, 1973. I had said that the concerned newspaper would be asked to state what it had to say in the matter.

The Editor of the *Indian Express*, in his letter dated the 7th May, 1973, has stated as follows:—

'At the outset I take the full legal and moral responsibility for what has appeared in the Bombay Edition of the *Indian Express* dated 30-4-1973 regarding the speech of Shri Madhu Limaye at Bombay.

Our Staff reporter maintains that the report which he has given is a correct translation of what he heard Mr. Madhu Limaye say at the meeting in question.

It is just possible that our reporter misheard what Mr. Madhu Limaye said. Such misreporting does sometimes occur having regard to the conditions under which reporters work.

I may assure you that there was no intention on the part of either the reporter or the sub-editor who handled the report to commit any breach of privilege of the members of the House. I may also mention that in view of Mr. Limaye's attitude to the ruling party and the strong language he had used against the Government and the Prime Minister in some of his other statements, no one in the editorial department had any reason to feel that Mr. Madhu Limaye was unlikely to make such a statement.

In view of this explanation, I request that the lapse, if any, on the part of the *Indian Express*, Bombay, in publishing the passage to which objection, has been taken, may be condoned by the Speaker.'

The Editor-in-Chief of the *Indian Express*, in his letter dated the 10th May, 1973, has stated as follows:—

'I acknowledge responsibility for the error complained of in reporting Mr. Madhu Limaye's speech at Bombay and offer my regret for the lapse.

May I say in explanation that the reporter responsible for the coverage maintains that what he wrote represents a faithful translation of Mr. Limaye's speech on this particular point. I am however mindful of the possibility that there was misreporting having regard to the difficult conditions in which reporters work and the difficulty of conveying in English the flavour of what is said in another language.

I trust the Speaker will accept my assurance that there was no intention on the part of those who handled Mr. Limaye's speech on the *Indian Express* to breach the privilege of members of Parliament.'

The Printer & Publisher and the concerned staff Reporter of the *Indian Express*, in their letters dated the 10th May, 1973, have stated that they have nothing more to add to the explanation given by their Editor in the matter.

In view of the above explanation and regret offered by the Editor, Editor-in-Chief, Printer and Publisher and the Staff Reporter of the *Indian Express*, if the House agrees, the matter may be treated as closed.

I hope, the House agrees."

6. The House agreed and the matter was closed.

307

LOK SABHA
(1974)

Point of privilege

Alleged misrepresentation of Report of a Parliamentary Committee by a news agency and certain newspapers

Facts of the case and action taken by the House

On the 28th March, 1974, Shri Amrit Nahata, a member sought to raise a question of privilege against the *United News of India*, a News Agency, for circulating to the press a distorted version of the 47th Report of the Committee on Public Undertakings (5th Lok Sabha) on Modern Bakeries (India) Ltd., Shri Nahata alleged that the following (i) news report published in the *Indian Express*, New Delhi, dated 26 March, 1974, and (ii) the editorial comments under the column 'Current Topics' in

the *Times of India*, New Delhi, dated the 28th March, 1974, were deliberate misrepresentations of the said Report of the Committee:

(i) The *Indian Express*—

“Modern Bakeries ‘selling stale mouldy’ Bread.

The Committee on Public Undertakings of Parliament is concerned at the high percentage of defective, stale and mouldy bread put on the market by Modern Bakeries (India) Ltd., a Central public undertaking.”

(ii) The *Times of India*

“The worst fault of Modern Bakeries, however, has been that they have unashamedly unloaded on the market ‘a high percentage of defective and stale bread’. Technically, this may not be an offence under the Food Adulteration Act, but morally it is inexcusable. The Union Government would be failing in its duty if it does not punish those responsible for selling stale and mouldy bread.”

2. The Deputy Speaker (Shri G.G. Swell), who was then in the Chair, observed *inter alia* as follows:—

“.....In these matters, the first step to be taken is, to write to the Press Agency and the papers concerned and ask them what they have got to say on this. ... Before the House takes a decision, let us hear from them.... We shall come back to the House to know what happens after that.”

3. On the 3rd May, 1974, the Speaker (Dr. G.S. Dhillon) informed the House *inter alia* as follows:—

“(i) The Editor and General Manager of the UNI in his reply dated the 2nd April, 1974, quoted certain passages from the 47th Report of Committee on Public Undertakings and stated, *inter alia* as follows:—

“We submit that the headlines are given by individual newspapers to all the agency reports as is evident from the fact that headlines vary from newspaper to newspaper. The UNI is not, therefore, responsible for the headlines appearing in the newspapers....

A comparison of the UNI report with the PUC report would show that the opening para of the agency’s report is a legitimate inference drawn from the Committee’s observation, explicit in the concluding part of the passage quoted above inasmuch as the Committee deemed it necessary

to recommend stricter measures to ensure that ‘stale and mouldy bread’ is not put on the market.

There are passages on pages 70, 71 and 72, of the Report containing unambiguous admission by a representative of Modern Bakeries examined by the Committee that defective bread was not only being put on the market but were also being sold.

We feel that these passages in the report fully justify the UNI report.’

(ii) The Resident Editor of the *Indian Express* in his reply dated the 30th March, 1974, stated as follows:

“....the news story...was circulated by the United News of India, one of the two national news agencies. We published the news story in good faith in the normal course.

It is obviously not possible for a newspaper to check the accuracy of every news report supplied by a news agency.’

(iii) The Editor of the *Hindustan Times* in his reply dated the 30th March, 1974, stated as follows:

“We published the item “Modern Bread under Fire” in our issue dated March 26 in the belief that it was an accurate summary of certain of the findings of the Committee on Public Undertakings that had been filed by the UNI to which we subscribe.

The item was published in good faith. However, if there were any inaccuracies in the report, we were not aware of these and deeply regret it and I would request you to kindly inform the Speaker accordingly and to assure him that any infringement of privilege in this case was wholly inadvertent.’

The *Hindustan Times* has been very clear in its regret.

(iv) The Editor of the *Times of India* in his reply dated the 5th April, 1974, stated *inter-alia* as follows:—

“The comment to which you refer was based on a UNI report. We are satisfied that the report in question was in no way *mala fide*. It faithfully summarised the PUC’s report. The PUC report specifically referred to ‘stale and mouldy bread’ in para 3.43 on page 72....

It is clear from what I have said above that the comment was entirely fair and that there was no

intention in any way to misrepresent or distort the contents of the PUC's report.'
This is the position taken by them.

- (v) I then referred the matter to the Committee on Public Undertakings for their comments on the stand taken by UNI.

The Chairman of the Committee on Public Undertakings, in her note dated 30 April, 1974, has conveyed to me the following opinion of the Committee on Public Undertakings:—

'The Committee in their 47th Report on Modern Bakeries (India) Ltd. observed that on examining the question of stale and mouldy bread, they found that in the case of Bangalore, Bombay and Kanpur units, the percentage of return of stale and mouldy bread was more than one per cent during 1972-73 as compared to the norm of 0.5 per cent fixed by the Management with effect from 2nd December, 1972. The Committee viewed with concern the high percentage of return of such bread in these units. The Committee recommended that effective measures should be taken by the Undertakings to tighten up its inspection machinery so that stale and mouldy bread was not put in the market. The Committee had not said in their Report that stale and mouldy bread was actually being sold in the market. In the circumstances, the Committee felt that the UNI report and heading carried by certain newspapers had not done justice to the letter and spirit of the recommendations of the Committee.'

This is a very light comment by them. They have not denied what was mentioned in the report..... but they say that the headlines had not done justice to the spirit of the recommendations of the Committee."

4. The Speaker added that in view of the explanations given by the General Manager of the UNI and the Editors of the concerned newspapers and also in view of the opinion of the Committee on Public Undertakings the matter might be dropped.

The House agreed and the matter was closed.

308
LOK SABHA
(1974)

Point of privilege

Misreporting of the proceedings of the House by All India Radio.

Facts of the case and ruling by the Speaker

On the 19th December, 1974, Shri R.N. Goenka, a member, sought to raise a question of privilege against the All India Radio for broadcasting in its news bulletin and in the broadcast entitled "Today in Parliament" on the 4th December, 1974, certain matters as proceedings of the House which in fact were not in the official record of the proceedings of the House of that day.

2. Thereupon, the Minister of Information and Broadcasting (Shri I.K. Gujral) made a statement explaining the position.

3. The Speaker (Dr. G.S. Dhillon) reserved his ruling.

4. On the 20th December, 1974, the Speaker, while advising the House to waive its privilege in this case, observed as follows:—

"Yesterday, Shri R.N. Goenka sought to raise a question of privilege against the All India Radio for broadcasting in its news bulletin and in the broadcast entitled 'Today in Parliament' on the 4th December, 1974, certain matters as proceedings of the House which in fact were not in the official record of the proceedings of the House of that day. Shri Goenka, while seeking to raise the question of privilege, *inter alia* stated—

"In the official record of the proceedings no doubt all these were omitted, yet various newspapers had published what happened in the House, some briefly, others at great length for their own reasons. I did not invite you to take formal notice of them, as I felt that there may have been a genuine misunderstanding in that the Press Gallery may not have heard your ruling and wanted them to have the benefit of doubt. But the All India Radio, which is an official organ, a Department of Government, cannot have the same excuse. In their coverage of the news regarding what happened in Parliament, they said:

"Immediately after question hour, pandemonium prevailed in the House as Mr. Priya Ranjan Das

Munsi (Congress) sought to ascertain from the Chair whether a newspaper report about Mr. R.N. Goenka had anything to do with the Member of the same name in the House.....

The All India Radio, not only broadcast the expunged matter, but in the commentary 'Today in Parliament' on 4th December night.....talks of 'cheating and forgery' under 'quote'.

Thereupon, the Minister of Information and Broadcasting, Shri I.K. Gujaral, explained the position and *inter-alia* stated:-

'On the 4th December 1974 some references were made in this House, immediately after the Question Hour on the newspaper report about Shri R.N. Goenka by Shri Priya Ranjan Das Munsi, MP. The proceedings arising from his reference were reported by the All India Radio in its bulletin at 2 p.m. and another bulletin.....AIR was not alone in reporting this incident. All the news agencies, including the PTI and UNI and several newspaper correspondents reported the incident.....the AIR news bulletin made no reference to allegations about cheating and forgery against Shri Goenka which were reported by the news agencies as well as newspaper correspondents.....

Shri Goenka has special objection to the commentary 'Today in Parliament' in which the words 'cheating' and 'forgery' were used. Sir, as the House is aware, this commentary is written by experienced newspaper and newsagency correspondents..... The Commentator on that day was Shri N. Gopinath Nair, a senior Correspondent of UNI.....

He referred to the issue raised by Shri P.R. Das Munsi about the press report involving Shri R.N. Goenka. In that context, he mentioned the words 'cheating' and 'forgery' only occurring in the press report and as quoted by Shri P.R. Das Munsi....'

The position is that the representatives of the Press including the Government news media, are admitted to the Press Gallery on the clear condition that they will faithfully report the proceedings of the House in an objective manner and more importantly, observe the decisions of the Chair and carry them out in letter and spirit. There can be no excuse that what is ordered not to be recorded in the

proceedings can be reported in the press or broadcast.

I have looked into the official record of the relevant proceedings of the House of that day and I find that the observations attributed to Shri Priya Ranjan Das Munsi in the news broadcast of All India Radio at 2 p.m. on that day are not recorded therein. Nor do I find the references to 'forgery' and 'cheating' in those proceedings. In fact, this is what I had said in the House on that day:

'I never called Mr. Das Munsi. He is not considered as speaking....

I have not allowed it; I had not called any member. If anything has been said, without my permission, this is not on record. I told it very clearly.

I am not allowing anything without notice. No member has got the right to get up without the permission of the Chair. Anything said by any member without being called or without my permission will not go on record.'

I am, therefore, of the view that the All India Radio should not have broadcast the observations of members as proceedings of the House which did not form part of the official record of the proceedings and the news agencies and the Press should not have similarly carried the alleged report of the speeches in the House. It is, however, admitted that there was terrible noise in the House at that time and in the din and uproar it is possible that the Press Correspondents and other representatives did not clearly hear my orders, and as Shri Goenka has also said that there may have been a genuine misunderstanding in the Press Gallery and he wanted the Press Correspondents to have the benefit of doubt, I think, that the same benefit of doubt may also be extended to the Correspondent and Commentator of the All India Radio since they are also placed in the same position in the Press Gallery as other Press Correspondents and the House may be well advised to waive its privilege in this case and leave the matter where it is.

I should, however, make it quite clear that in future serious notice would be taken of such lapses and in order to prevent their repetitions, I would advise the Press Correspondents in the Press Gallery to make sure from the official reporters about the correct position so that the

proceedings are reported or broadcast faithfully."

309

LOK SABHA

(1974)

Point of privilege

Misleading news-item concerning Speaker published by a newspaper

Facts of the Case and ruling by the Speaker

On the 4th September, 1974, the Speaker (Dr. G. S. Dhillon) drew the attention of the House to the following news report published in the *Hindustan Times* dated the 4th September, 1974:—

"According to a competent source, the CBI proceeded in the matter¹ only after securing the Lok Sabha Speaker's permission."

2. The Speaker also observed:—

"It would have been a different matter if the proceedings were wrongly reported. But they have written something about me, that somebody came and I gave permission. This is very unfair. They are writing like this and putting me in such an embarrassing position. What is the sense in doing this? Even if this is a feeler, they could easily have contacted me or the Secretary-General to find out as to what is the truth. But this is very unfair."

3. On the 9th September, 1974, the Speaker informed the House that he had received a letter dated the 5th September, 1974, from the Editor of *Hindustan Times* which read as follows:—

"I am extremely sorry that your name was mentioned in the report carried by the *Hindustan Times* yesterday in connection with the CBI inquiries into the Import Licence case without reference to you.

As you stated in the House, this could have been checked with you. The failure to do so was quite inadvertent but I would nevertheless wish to tender an apology that this should have happened. I can assure you that there was absolutely no intention on our part to cause any embarrassment or cast any reflection on your august office."

The matter was, thereafter, closed.

310

LOK SABHA

(1974)

Point of privilege

Alleged suppression of the name of a member by a newspaper while reporting the proceedings of the House

Facts of the case and ruling by the Speaker

On the 20th December, 1974, the Speaker (Dr. G.S. Dhillon) informed the House as follows:—

"Shri Jyotirmoy Bosu gave notices of questions of privilege on the 1st August, and 18th November, 1974, against the *Jugantar* Calcutta, complaining that while reporting certain proceedings of the House of the 29th July and of the 15th November, 1974, in its issues dated the 30th July and 16th November, 1974, respectively, the newspaper deliberately suppressed the name of Shri Jyotirmoy Bosu.

The matter was taken up with the Editor of the *Jugantar*. The Editor has, in his letter dated the 12th December, 1974, stated *inter alia* as follows:—

"It is not possible for a newspaper to publish the full proceedings in regard to any matter and the editor is obliged to reduce the report and publish a summary thereof. In the summaries of the proceedings of the 15th November, 1974 and 29th July, 1974 as published, it appears the name of Shri Jyotirmoy Bosu, M.P. was omitted among the members who had spoken on the motion. It is not correct to say that the name of Shri Bosu was deliberately omitted or that the *Jugantar* is in the habit of suppressing the name of Shri Bosu.

From the proceedings it appears that there were also other speakers who spoke on the question whose names could not be included in the report.

"We want to make it clear that there was no intentional or deliberated omission of the name of Shri Bosu. We respectfully submit that there has been no breach of privilege. We, however, express our deep regret and tender our sincerest apology for the omission which may have caused some pain to the Hon. Member and which we had no intention to cause'.

¹Investigation into Pondicherry Import Licence case.

In view of the above, the matter is treated as closed."

311

LOK SABHA
(1977)

Point of privilege

Alleged misreporting of proceedings of the House by All India Radio

Facts of the case and ruling by the Speaker

On the 8th August, 1977, the Speaker (Shri K. S. Hegde) informed the House that on 5th August, 1977, Shri K. P. Unnikrishnan, a member, gave notice of a question of privilege against (1) the Minister of Information and Broadcasting (Shri L. K. Advani) and (2) the Chief Editor, News Services (English), All India Radio, on the ground that in the English News Bulletin broadcast by the All India Radio at 9.00 P.M. on the 4th August, 1977, it was said that some of his remarks made in the House on that day were expunged by the Speaker whereas none of his remarks were expunged.

2. The Speaker, while disallowing the question of privilege, ruled as follows:—

"I referred the matter to the Minister of Information and Broadcasting for his comments and also called for a copy of the transcript of the said news Bulletin broadcast by the All India Radio.

The Ministry of Information and Broadcasting has, with the approval of the Minister, informed me as follows:—

'In the 9 P.M. English bulletin broadcast on August 4, 1977, the following passage occurs at the end of the news item pertaining to the discussion in the Lok Sabha on the Congress motion seeking to disapprove the conduct of the Home Minister.'

'During the acrimonious debate fresh charges were flung by Congress members. Reacting sharply to one of these, Mr. Charan Singh challenged the relevance of the charge and offered to resign if it is proved correct. The Speaker agreed with him and expunged the Congress Members' remarks. The Prime Minister will speak on the motion tomorrow.'

There is no doubt that All India Radio had erred in reporting this particular item. From the uncorrected copy of the day's proceedings of Lok Sabha it appears that the Hon. Speaker has

used the words, 'I may expunge it' unfortunately, the AIR Correspondent understood this to be 'I expunge it'. It was incumbent on the AIR Correspondent to have checked with the official Reporters before mentioning any 'expunging' of remarks, but in his anxiety to beat the deadline of the main 8.45 P.M. Hindi and 9 P.M. English News Bulletins, the AIR Correspondent overlooked this important precaution.

The mistake was, however, unintentional and is regretted. Suitable instructions are being issued to AIR Correspondents to be more careful with a view to ensuring avoidance of recurrence of such mistakes.

There was, however, no question of any wilful misrepresentation by AIR. Under these circumstances, it is requested the Privilege Motion may kindly be dropped.

In view of the explanation and the regret expressed, I decline to give my consent under Rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha. The matter is treated as closed.

I hope the accredited Correspondents in the Press Gallery, particularly the Correspondents of an official agency like the All India Radio, will be more careful in future. Whenever in doubt, they should check up with the official record of the proceedings of the House."

3. The matter was thereafter closed.

312

LOK SABHA
(1978)

Point of privilege

Alleged misreporting of proceedings of the House by All India Radio

Facts of the case and ruling by the Speaker

On the 24th February, 1978, the Speaker (Shri K.S. Hegde) informed the House as follows:—

"Hon. Members will recall that on the 21st February, 1978, when the Railway Minister commenced his Budget speech, a few members including Shri, Mani Ram Bagri made submissions that the Minister might speak in Hindi. Members from the other side made counter-submissions whereupon I pointed out that both the languages, Hindi and English, were permitted. At that stage the Prime Minister intervened and

requested the members of the ruling party to resume their seats and 'not to create such things in this House'. He also requested the members of the Opposition not to disturb the proceedings of the House.

On the 22nd February, 1978, Shri Mani Ram Bagri drew my attention to the news broadcast in Hindi at 8.45 p.m. on the 21st February, 1978 wherein it was said that the Prime Minister had pulled up the members (in Hindi the expression used was 'danta') who made the demand that the Railway Minister should speak in Hindi. The Member requested that the Minister of Information and Broadcasting should explain the position on behalf of the All India Radio and should correct and clarify it if necessary. The Minister was informed about the same.

The Minister of Information and Broadcasting in his reply dated 23rd February, 1978 has observed *inter alia* as follows:—

"The Director of News Services of AIR has written to me (i.e. the Minister) to say that the AIR Parliamentary correspondent could have been more careful in the choice of words signifying the Prime Minister's intervention, but the facts that the Samachar also used the same words would show that he was only trying to give a fair picture of what happened in the House. Since there was no intention on his part or on the part of the Editor to show disrespect to any member, it is hoped that the hon. Member will appreciate that this was a *bona fide* action on the part of the Correspondent. AIR has the highest regard for every member of the House including the hon. Member, Shri Mani Ram Bagri. No offence was meant to him or to any other member but if his feeling has been hurt, I convey my regrets.

Director of News Services has again advised all AIR Parliamentary correspondents to be more careful in reporting proceedings of this nature.'

In view of the regret expressed, I think that the matter may be treated as closed. At the same time, I would like to impress that greater care should be taken by all concerned in reporting the proceedings of Lok Sabha."

2. The matter was thereafter closed.

313

LOK SABHA
(1978)

Point of Privilege

Alleged misrepresentation of members' party affiliation by a newspaper

Facts of the case and ruling by the Speaker

On the 22nd March, 1978, Shri Vayalar Ravi, a member drew the attention of the Speaker (Shri K. S. Hegde) in the House to a news report published in the *Hindustan Times* of that date under the caption "Congress-I MP's words 'undignified'", in which his name and that of Shri Saugata Roy, another member, had been clubbed in the group of Congress-I. While raising the matter, Shri Vayalar Ravi stated *inter alia* as under:—

"....Sir, it has been mentioned that certain remarks made were undignified. I have not made any undignified remark on the floor of the House and putting my name and the name of Mr. Saugata Roy gives an impression that we have also made certain remarks on the floor of the House which were undignified. No other paper has given this. Sir, this kind of false and misleading reports should not appear and this affects the prestige and honour of the members of this House....."

2. The Speaker then observed as follows:—

"I have already directed that the list of members belonging to each group or party must be made available to the press. I am calling for an explanation from the correspondent of the *Hindustan Times*."

3. The matter was taken up with the Editor of the *Hindustan Times*, New Delhi, and he was asked to state what he had to say in the matter. In his letter dated the 24th March, 1978, the Editor of the newspaper stated as follows:—

"On inquiry, I find that the party affiliation of Mr. Vayalar Ravi and Mr. Saugata Roy were wrongly printed. The error is deeply regretted.

I assure you that there was not the slightest intention to cause offence or show disrespect to the honourable members.

I have instructed the Editorial Department to exercise utmost care while printing news relating to parliamentary proceedings. Please reassure the Honourable Speaker on this point."

4. A copy of the above letter was given to Shri Vayalar Rai and the matter was, thereafter, closed.

314

LOK SABHA

1978

Point of privilege

Alleged misreporting of the proceedings of the House by a newspaper

Facts of the case and reference to the Committee of Privileges

On the 19th July, 1978, after the Question Hour was over, Sarvashri Jyotirmoy Bosu and Vasant Sathe members, raised a number of points of order regarding admissibility of their respective notices of Adjournment Motions, Calling Attention matters and matters under Rule 377. There were many interruptions in between and several times the Speaker had to order not to record anything said by the members without his permission.

At one stage, while Shri Jyotirmoy Bosu was speaking, the Speaker (Shri K. S. Hegde) observed as follows:—

"I cannot be dictated by anybody. In the case of an adjournment motion, it is upto the Speaker to reject it. I am in possession of full facts. It is for me to place it before the house or not. I have not placed it before the House. You cannot place it before the House.....You cannot dictate to the Speaker. There should be an orderly House. I am on the ground that investigation is still going on."

Later, while Shri Vasant Sathe and others were seeking to raise their points of order, the Speaker observed, *inter alia*, as follows:—

"Let me make it plain to the Hon. Members that no threat will deter me. I have said that I will certainly go according to the rules, according to my interpretation, subject to any resolution in the House. Therefore, there is no use making a threat. I am selecting Calling Attention Notices according to what I consider to be important. I am to decide about it."

2. On the 21st July, 1978, Shri Vasant Sathe, made a complaint in the House against the Special

Correspondent of the *Times of India*, New Delhi, for publishing the following news report in its issue of the 20th July, 1978, under the caption 'Uproar in House over PM—Charan letters':—

"At one stage, the Speaker, Mr. K.S. Hegde, had to remind Mr. Sathe that he should refrain from making threats in the House."

Shri Vasant Sathe, while objecting to the above news report, stated, *inter alia*, as follows:—

".....the other day, on the 19th, you remember there were certain points of order, interruptions and all that. And, I was requesting you that you should give a ruling on the Point of Order....

Normally, I do not take any exception to what appears in the newspapers. They are free to write what they like, whether it is favourable or otherwise, it is perfectly all right. But, Sir, it was really very unkind on the part of the Correspondent of the *Times of India* to say like this...You had never said like this (a) I had not given any threat (b) You had no occasion to remind me....

Therefore, this is really incorrect. I do not want to bring a privilege motion on this though it is a case of clear breach of privilege, misreporting and making an aspersion against a member. You were also wrongly reported.

I hope you will make an observation that the *Times of India* should correct itself and the Special Correspondent. I will be satisfied".

3. Thereupon the Speaker observed as follows:—

"Mr. Sathe, you are right. I think the reporting was wrong and the paper should correct itself."

4. On the 1st August, 1978, Shri Vasant Sathe raised a question of privilege in the House against the Special Correspondent, *Times of India*, New Delhi, regarding alleged misreporting of certain proceedings of Lok Sabha dated the 19th July, 1978, in the *Times of India*, dated the 20th July, 1978, and stated, *inter alia*, as follows:—

"I had hoped that after this the paper would correct itself. Unfortunately, although it was pointed out to the correspondent and to the newspaper editor they had not corrected it. Therefore, I sought your permission to raise it....I would request you to consider that to report the proceedings of the House incorrectly—which had never happened, which had never taken place, which tends to malign a member—

is *per se* a breach of privilege....I feel it is for the House to decide whether a breach of privilege has been committed or not and I leave it to the House."

5. Shri Vasant Sathe then moved the following motion:—

"That this matter be referred to the Committee of Privileges".

6. Thereupon, Shri Jyotirmoy Bosu moved the following motion:—

"That the House may consider the question and come to a decision with regard to this question of privilege."

7. The discussion on the above motions was not concluded on that day and the Speaker observed that the matter would be taken up on some other day.

8. On the 16th August, 1978, during the course of discussion in the House on the above motions, the Speaker made *inter alia*, following observations:—

"Whenever an Editor or a Correspondent either accepts his mistake or apologizes, I invariably persuade the Members to drop the matter. If only the Correspondent had apologized or even said he was regretting what he said, probably things would have been different. He did not either apologize or express regret."

9. Thereafter, the following motion was adopted by the House:—

"That this matter be referred to the Committee of Privileges with instructions to report before the end of the next session."

Finding and recommendation of the Committee

10. The Committee of Privileges, after examining on oath Shri Vasant Sathe, a member and Shri Girilal Jain, Editor, *Times of India*, Bombay, in their Fourth Report, presented to the House on the 22nd March, 1979, stated, *inter alia*, as follows:—

- (i) "...the Editor of the *Times of India* failed to publish the necessary correction as directed by the Speaker. The Editor, *Times of India* also failed to take note of the Speaker's ...observations, in his letter of explanation dated the 26th July, 1978 in response to the notice of question of privilege dated the 24th July, 1978, given by Shri Vasant Sathe, M.P."
- (ii) "The Committee are of the view that it was obligatory on the part of the Editor of the *Times of India* to have paid due attention to the

Speaker's observations made on the 21st July, 1978, in the House and publish the necessary correction as directed by the Speaker."

- (iii) "In view, however, of the explanation given and regret expressed by the Editor, *Times of India*, before the Committee, the Committee consider that no further action need be taken in the matter."
- (iv) "The Committee are conscious that the freedom of the Press is an integral part of the fundamental right of the freedom of speech and expression guaranteed to all citizens under Article 19(1) (a) of the Constitution. The Committee consider it important that in a Parliamentary system, the Press should enjoy complete freedom to report the proceedings of Parliament fairly and faithfully. If, however, freedom of the Press is exercised *mala fide*, it is the duty of Parliament to intervene in such cases. At the same time, the Committee are of the view that Parliamentary privilege should in no way fetter or discourage the free expression of opinion or fair comment."
- (v) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

11. No further action was taken by the House in the matter.

315
LOK SABHA
(1978)

Point of privilege

Alleged mis-representation and casting aspersions on members regarding the proceedings of the House by a newspaper.

Facts of the case and ruling by the Speaker

On 29th August, 1978, the Deputy Speaker (Shri Godey Murahari) informed the House as follows:—

"Shri K.P. Unnikrishnan had given a notice of question of privilege on 14 August, 1978 against the Editor, *The National Herald*, New Delhi, for alleged gross distortion and wilful 'misrepresentation of certain proceedings of Lok Sabha of 12 August, 1978, and casting 'aspersions' on their 'conduct' as members in the House' in a news report published in its issue dated 13 August, 1978, under the caption

'Major Tactical Reverse'."

The Editor, *The National Herald*, who was asked to state what he might have to say in the matter, in his reply dated 19 August, 1978 has stated *inter alia*, as follows:—

'Our reporter has explained that in his attempt to give the gist of the tumultuous proceedings of the day in an abbreviated form, unintentional errors had crept into the report. He has further stated that it was farthest from his mind while reporting the proceedings to misquote any member or misrepresent any party's view point. We express regret and offer our unqualified apology for the erroneous reporting and request that the notice of breach of privilege against *National Herald* is not pressed.'

In view of the regret and unqualified apology tendered by the Editor, *The National Herald*, if the House agrees, the matter need not be pursued. The Editor of *The National Herald* may, however, be asked to publish the necessary correction and his apology prominently in the next issue of the newspaper."

2. Accordingly, the Editor of *The National Herald*, published the necessary correction in *The National Herald*, dated 30th August, 1978 and the following apology in its issue dated 14th September, 1978:—

REGRET

Some unintentional errors had crept into our reporting of the proceedings of the Lok Sabha on August 12, 1978. A question of privilege had been raised by Mr. K.P. Unnikrishnan, M.P. for alleged misrepresentation and casting aspersions on members in that report. The correct version was published on the front page in the issue of *National Herald*, dated August 30, 1978.

We apologise to all those aggrieved by the incorrect report.

—Ed. N.H.'

3. The matter was, thereafter, closed.

316
LOK SABHA
(1979)

Point of privilege

Alleged misreporting of the proceedings of the House by a newspaper.

Facts of the case and ruling by the Speaker

On 4th May, 1979, the Speaker (Shri K.S. Hegde) informed the House as follows:—

"Shri Mallikarjun in a notice of question of privilege, dated the 17th April, 1979, had alleged that the *Hindustan Times* in its issue dated the 17th April, 1979, had misreported the proceedings of Lok Sabha, dated the 16th April, 1979, relating to the Calling Attention on the question of lock-out in the *National Herald* concerns. Shri Mallikarjun had stated that in a news item under the caption 'Herald will be taken over, if needed', the *Hindustan Times* had reported that Union Labour Minister Ravindra Verma assured the Lok Sabha today that the Government would consider various steps including takeover of the management of the *National Herald*, group of newspapers if it was found necessary during or after the present comprehensive enquiry into its affairs'. Shri Mallikarjun had contended that a reading of the relevant proceedings of Lok Sabha showed that 'the Labour Minister made no such statement and gave no such impression'.

The Editor and the Publisher of the *Hindustan Times*, who were asked under my direction to state what they might have to say in the matter, in their replies have deeply regretted the inaccuracy in the issue of the *Hindustan Times* dated the 17th April, 1979.

The regret expressed by the Editor and Publisher of the *Hindustan Times* may be accepted and the matter may be treated as closed."

2. The matter was, thereafter, closed.

317
LOK SABHA
(1980)

Point of privilege

Misreporting of a member's speech by a newspaper.

Facts of the case and ruling by the Speaker

On 30th June, 1980, Shri Mani Ram Bagri, a member complained in the House that the *Hind Samachar*, an Urdu daily of Jullundur, in its issue dated 29th June, 1980, while reporting about the Baghpat incident had misreported him.

2. The news items which appeared in the *Hind Samachar* under the caption "Complaint of Mani Ram Bagri against Newspapers" read *inter alia*, as follows:—

"Shri Mani Ram Bagri (Janta-S) today complained in the Lok Sabha that papers had underplayed references made in the House yesterday to the incident in Baghpat in which a woman was stripped and paraded.

Newspapers, he said, had highlighted references to the incident in the Rajya Sabha.

Shri Bagri also complained that he was wrongly described as a member of Lok Sabha".

3. The Speaker (Shri Bal Ram Jakhar) then observed *inter alia* as follows:—

"....P.T.I. has correctly reported but other papers have misreported. We will call explanation, why it has been misreported."

4. On 8 July, 1980, the Speaker informed the House *inter alia*, as follows:—

"I have received a reply from the Editor of the *Hind Samachar* in which he has expressed regret for the mistake.

The regret expressed by the Editor of the *Hind Samachar* may be accepted and the matter may be treated as closed."

The matter was, thereafter, closed.

318

LOK SABHA
(1980)

Point of privilege

Alleged suppressing of proceedings of the House by All India Radio.

Facts of the case and ruling by the Speaker

On 23rd July, 1980, the Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

"On 21st July, 1980 Shri Mani Ram Bagri gave notice of a question of privilege against the All India Radio for not broadcasting the announcement made by the Speaker in the House on 17 July, 1980 while disallowing notices of adjournment motion on the subject of reported rape of a woman by certain policemen of Dabwali Police Station, Sirsa District in Haryana and her subsequent demise. While disallowing the notices of the adjournment motion on the subject given by Sarvashri Mani Ram Bagri, K.K. Goyal, Satish Agarwal, Jaipal Singh Kashyap, Chandra Pal Shailani and Ram Vilas Paswan, I had made certain observations regarding the concern of the House about such incidents.

The Ministry of Information and Broadcasting in their comments have stated that the news regarding disallowance of the adjournment motion had been briefly mentioned by All India Radio in their English news bulletin broadcast at 4 P.M. and also in 'Parliament Today' and 'Sansad Samiksha'.

I have no doubt that All India Radio and other official media would take due note of the observations made from the Chair, particularly those which show concern of the House."

The matter was, thereafter, closed.

319

LOK SABHA
(1980)

Point of privilege

Misreporting of proceedings of the House by a newspaper.

Facts of the case and ruling by the Speaker

On 30 July, 1980, the Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

"On 25th July, 1980, Shri Mani Ram Bagri gave notice of question of privilege that *Patriot*, an English daily of New Delhi, in its issue dated 25 July, 1980, while reporting about the proceedings of the House regarding notice of adjournment motion on the deterioration of law and order situation in the Capital had misreported the party affiliation of Shri Jaipal Singh Kashyap. Shri Jaipal Singh Kashyap, who is the leader of the Janata (S) (Raj Narain) Group in Lok Sabha was shown as belonging to Lok Dal.

I had taken up the matter with the Editor of *Patriot*. In his reply, the Editor has expressed his sincere regrets for the mistake. He has also published a correction in the *Patriot* of 30 July, 1980.

The regret expressed by the Editor of *Patriot* may be accepted and the matter may be treated as closed."

The matter was, therefore, closed.

320

LOK SABHA
(1981)

Point of privilege

Alleged misrepresenting of proceedings of the

House and casting reflections on a member by a newspaper.

Facts of the case and reference to the Committee of Privileges

On 9th December, 1981, Shri Satish Agarwal, a member, gave notice of a question of privilege against Shri R.K. Karanjia, Editor-in-Chief of *Blitz* and Shri Rajpal Singh Chowdhury, Editor of *Delhi Recorder* for allegedly misrepresenting the proceedings of the House and casting reflections on him in a news report published on the front page under the caption "Did Agarwal lie to Parliament?", and in an article written by Shri Rajpal Singh Chowdhury under the caption "Change of hospital site irked Agarwal...Planned tarring of Antulay", published in *Blitz* dated 21st November, 1981.

2. In the impugned news report, Shri R.K. Karanjia had *inter alia* stated as follows:—

"One of these votaries of truth Satish Agarwal himself concealed the truth when he focussed attention on Antulay's links with London millionaire Nirmal Sethia in Parliament early September this year conveniently forgetting his very own Sethia connection".

"As Minister of State of Finance in the Janata Government, Agarwal himself pulled Sethia's chestnuts out of the Customs fire on the intervention of the late Bishwanath Jhunjhunwala then Janata M.P."

3. Shri Rajpal Singh Chowdhury, in his article published in the *Blitz* had *inter alia* stated as follows:—

"The question, it seemed to me, underlying the whole sordid affair was why would Agarwal launch an attack in Parliament against Sethia and ask for the files on the London-based business magnate to be reopened while, at the same time taking very great care to conceal from his fellow MPs the crucial fact of his own relationship and assistance to Sethia in the past."

"The question that cries out for an answer is, why did Agarwal mislead the public by hiding the fact in Parliament that he was well acquainted and had indeed, helped the very person against whom his accusations were levelled? Could it be only a matter of pique because Sethia had changed his mind about financing a hospital in Rajasthan and decided to respond to Antulay's appeal to build the hospital in the Konkan,

instead? Or was Agarwal exploiting the sheer good fortune of being able to combine the attack on Sethia with the more ambitious goal of mounting a campaign against the Maharashtra Chief Minister?."

4. Shri Agarwal had stated in his notice *inter alia* as follows:

"I never spoke in Parliament at any time either in September or at any other time referring to any alleged links of Antulay with London millionaire Nirmal Sethia. There was no occasion of any kind when I suppressed any truth whatsoever...Articles such as these based as they are basically upon a wilful misrepresentation of the proceedings of the House constitute a gross breach of privilege by themselves."

5. On 17th, March, 1982 Shri Satish Agarwal raised the question of privilege in the House and moved the following motion which was adopted by the House:—

"That the question of privilege against Shri R.K. Karanjia, Editor-in-Chief of the *Blitz* and Shri Rajpal Singh Chowdhury, Editor of *Delhi Recorder* for allegedly misrepresenting the proceedings of the House and casting reflections on Shri Satish Agarwal, a member of this House, in a news report and an article published in *Blitz* dated 21 November, 1981, be referred to the Committee of Privileges for examination and report."

Findings and recommendations of the Committee

6. The Committee of Privileges, after examining Shri Satish Agarwal, Shri R.K. Karanjia and Shri Rajpal Singh Chowdhury in their Fifth Report, presented to the House on 25th August, 1983, reported *inter alia* as follows:—

(i) "Shri Satish Agarwal, M.P. during the course of his evidence before the Committee stated, *inter alia* as follows:—

"...I have not known Nirmal Sethia at any time. Neither I asked, nor he agreed to construct any hospital in Rajasthan at my instance. Nor did I know that he had changed his plans at Antulay's instance. There was no question of my entertaining any animus against him (Sethia) and I have not in any manner displayed that animus against him...the insinuation that I got him out of trouble or "pulled his chestnuts out of Customs fire" is a clumsy and irresponsible insinuation. It is solely intended to tarnish my

image as a Parliamentarian and is meant to deter me from raising issues of public importance in the House'.

"Shri Satish Agarwal added that '...this is absolutely false that I raised any question in the Lok Sabha either in 1980 or in 1981 or even in 1982 or even till this date. Not a single sentence I have uttered in Parliament against Mr. Sethia regarding Enforcement Directorate or enforcement cases pending against him or any other issue."

(ii) "Shri R.K. Karanjia, during his evidence before the Committee stated *inter alia* 'Unfortunately I took whatever was published by the *Delhi Recorder* as true'. He conceded that it was an error on his part to have published it.

Shri Karanjia added: 'I am sorry for it. I said so. Not only that, it was certainly not motivated by wilful misrepresentation as has been said. I think I am as much a victim of a plant as was Mr. Satish Agarwal. I took whatever had appeared as true.'

Shri R.K. Karanjia readily agreed to publish his apology in the *Blitz*."

(iii) "The Committee note the regrets published by Shri R.K. Karanjia in the *Blitz* in its issue dated 10 July, 1982, under the caption 'Agarwal did not lie to Parliament' in the following terms:—

'In the heat of the Antulay controversy, *Blitz* of November 21, 1981 published a story titled "DID AGARWAL LIE TO PARLIAMENT?" submitted to us by Rajpal Singh Chowdhury, Editor of the *Delhi Recorder*, and based on his reportedly well researched findings.

The report stated *inter alia*, that "Satish Agarwal (BJP-MP) concealed the truth when he focussed attention on Antulay's links with London millionaire Nirmal Sethia in Parliament early September this year... conveniently forgetting his very own connection". and that "the truth surfaced with the discovery of tell-tale letters which damn crusader Agarwal as the culprit who knowingly and deliberately got Sethia out of trouble".

At that time, BLITZ had no reason to doubt the veracity of these statements as several photocopies were furnished, by Editor Chowdhury in support of his contentions.

Mr. Satish Agarwal, however, subsequently repudiated it as "false and malicious accusation", with the unequivocal denial that "I never spoke in Parliament at any time, either in September 1981 or any other time, referring to any alleged links of Antulay with London millionaire, Nirmal Sethia. There was no occasion of any kind when I in any manner whatsoever concealed any truth from the House or even remotely misled the House."

BLITZ's own enquiries since reveal that Mr. Agarwal's contentions are correct. He never spoke in Parliament on the alleged links of Antulay with Nirmal Sethia nor could we find any evidence that he concealed any truth from Parliament or in any way misled the House.

BLITZ, therefore, considers it its duty to withdraw, voluntarily and of its own accord, all charges against Mr. Agarwal in the story and regrets the embarrassment caused to him by the publication.

(iv) "Shri Rajpal Singh Chowdhury submitted to the Committee a letter dated 2 July, 1982, containing his unconditional and unqualified apology in the following terms:—

This morning when I gave evidence, I made my position clear by rendering unconditional and unqualified apology for the matter of breach of privilege which is under inquiry by the Committee of Privileges. Even though I had no reservation on my part, yet I left with a feeling that I gave an impression to the Hon'ble members of the Committee that the apology offered by me was not unreserved. I am extremely grateful to the Committee for having thrown the suggestion that I should tender a written apology for the kind consideration of the Committee. I sincerely regret if I have given an impression that I was acting in a reserved manner in offering the apology. I am only sorry that my way of expression which is the usual way of conversation seems to have given this impression, but I assure the Hon'ble members of the Committee that in no manner whatsoever I had any reservation in offering my apology and that further I had no intention whatsoever of giving an otherwise impression than the unqualified apology that I tendered. I reiterate that my statement in the *Delhi Recorder* was based on wrong facts that Shri Satish Agarwal, M.P., had launched an attack in the Parliament against Shri Nirmal Sethia, and that he had

misled the public and fellow M.Ps. by hiding the fact in the Parliament.

I regret for the inconvenience, caused to Shri Agarwal and also to Hon'ble members of Parliament and the Committee members. I seek the permission of the Committee to publish the apology in my magazine, namely, *Delhi Recorder*. I assure the Committee of my fullest cooperation and request that my unqualified and unconditional apology may please be accepted'.

(v) "The Committee note that in his apology, published in November, 1982 issue of *Delhi Recorder*, Shri Rajpal Singh Chowdhury, stated, *inter alia*, as follows:—

'In retrospect and upon further investigation it was found that the story published in "Blitz" dated 21 November, 1981, was inaccurate as the (ex) minister never spoke in Parliament on the concerned subject and had on no occasion concealed any truth from the House or even remotely misled it...

The Editor accepted that the story as it was carried did misrepresent proceedings of the Lok Sabha and caused distress to Mr. Agarwal. The reputation of the House and of the ex-Minister are the foremost concern of Editor, personally and professionally. The Editor tenders his deep regrets and apology for this serious mistake'."

(vi) "It is well established that misrepresenting the proceedings of the House and casting reflections on a member in regard to his conduct in Parliament constitutes a gross breach of privilege and contempt of the House."

(vii) "In the present case, it is obvious from the evidence and documents before the Committee that the impugned news report and the article published in the *Blitz* in its issue dated 21 November, 1981, grossly misrepresented the proceedings of the House and cast serious reflections on Shri Satish Agarwal, M.P., which constitute a breach of privilege and contempt of the House."

(viii) "The Committee are therefore of the opinion that both Shri Rajpal Singh Chowdhury as well as Shri R.K. Karanjia are guilty of committing a breach of privilege and contempt of the House."

(ix) "The Committee are however, of the view that the unconditional and unqualified apologies tendered by Shri Rajpal Singh Chowdhury and

Shri R.K. Karanjia to the Committee and publication thereof by them in the *Delhi Recorder* and the *Blitz*, respectively, may be considered as adequate and that no further action be taken by the House in the matter."

(x) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

7. No further action was taken by the House in the matter.

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RAJYA SABHA

(1959)

Point of privilege

Unfair and mendacious reporting of proceedings of the House and casting reflections on a member.

Facts of the case and reference to the Committee of Privileges

On the 8th September, 1958, Shri Bhupesh Gupta, a member, gave notice of a question involving a breach of privilege of the House arising out of certain observations contained in a feature article entitled 'in Parliament' appearing in the weekly journal *Thought* dated the 6th September, 1958, published from New Delhi. The relevant passage in the article was as follows:

"When a Congress member Mr. H.P. Saksena (U.P.) did a bit of skinpeeling that exposed the spots on the Communist friends of the Nagas, Mr. Gupta did the obvious: he flew into a rage. 'This was' he shrieked (Mr. Gupta's voice is too shrill to permit a thunder), 'fatuous, fantastic, untrue'."

2. The Chairman (Dr. S. Radhakrishnan) referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendations of the Committee

3. The Committee of Privileges, after examining Shri Bhupesh Gupta, and Shri Ram Singh, the Editor of *Thought*, in their Third Report, presented to the House on 6th March, 1959 reported, *inter alia*, as follows:—

(i) "In the course of his statement, Shri Ram Singh said that at the time the offending article was written in the issue of 'Thought', he or his

columnist had not taken into consideration the latter portion of the proceedings of the Rajya Sabha of the 27th August, 1958, wherein Shri H.P. Saksena had stated that he did not suggest that Shri Bhupesh Gupta or the Communists were misleading the Nagas. Shri Ram Singh further said that if this had been taken into consideration, the report of the columnist and his conclusions might have been different. He expressed regret for this inadvertent inaccuracy. He also expressed regret for his references to Shri Bhupesh Gupta which were of a personal character."

- (ii) "The Committee is of the opinion that, in view of the explanation offered and the regrets expressed before the Committee by Shri Ram Singh, the Editor of 'Thought' no further time should be occupied by the House in consideration of this matter."
- (iii) "The Committee, therefore, recommends that no further action be taken by the House in the matter."

Action taken by the House

4. On 9th March, 1959, the House adopted the following motion moved by Shri S.V. Krishnamoorthy (Chairman of the Committee of Privileges):

"That the Third Report of the Committee of Privileges, laid on the table of the House on 6th March, 1959, be taken into consideration and having considered the same the House agrees with the recommendation contained in the Report."

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RAJYA SABHA
(1964)

Point of Privilege

Misreporting of the proceedings of the House by a newspaper

Facts of the case

On the 9th September, 1964, Shri Arjun Arora, a member drew the attention of the House to a report appearing in the *Indian Express* of that morning carrying a heading "Tariq apologises for remark against J.P." and that the news report had said that the member had apologised for his remark against Mr. J.P. Narayan.

Shri Arora said that the fact was that Shri Tariq, a member, had never apologised for any remarks that

he made against Shri Jaya Prakash Narayan in the House on the previous day. All that Shri Tariq had said was: "I will withdraw it on one condition" and before he could state the condition his sentence was not allowed to finish because of some interruptions. Shri Arora contended that by misreporting, the newspaper had committed contempt of the House.

2. The Chairman (Dr. Zakir Hussain) asked the member to furnish details in writing and added that he would look into the matter.

3. On the 11th September, 1964, the Chairman informed the House:—

"...Before, however I received Shri Arjun Arora's letter, I received a letter for the special correspondent of the *Indian Express*, who was responsible for the report referred to by Shri Arjun Arora, explaining that his report was based on the impression he formed of the proceedings of the House, sitting in a back row of the Press Gallery where the proceedings were not fully audible. He has expressed his regret that he should have caused pain to the member concerned by his report and has assured that there was no question of *mala fides* on his part. He has also requested that the lapse may be condoned. In view of this, I have decided that the matter may be closed. I would however, like to impress upon the press that they should be extremely careful in ensuring accuracy in reporting Parliamentary proceedings."

323

RAJYA SABHA
(1966)

Point of privilege

Alleged misreporting of the proceedings of the House by a newspaper

Facts of the case and ruling by the Chairman

On the 12th August, 1966 Shri Bhupesh Gupta a member complained in the House about the reporting of the previous day's proceedings in the House by the *Times of India* of Delhi, in its issue of that date, under the heading "Sabotage by Reds in Durgapur confirmed". Shri Gupta stated that the headline given by the newspaper was malicious because neither the Minister nor anybody else in the House had confirmed the allegations of sabotage by Communists. He contended that the news-paper was guilty of deliberately misleading, with malicious intention, the readers against his party and that the matter be referred to the Committee of Privileges.

2. After a brief discussion, the Chairman (Dr. Zakir Hussain) observed *inter alia* as follows:—

"Now my view about this matter is that the headline of the *Times of India* does not conform to the report that the *Times of India* has given and there was no confirmation of anything that was said from inside. Therefore that headline in my opinion, is not justified. Of course, I do not want to take a serious view of it but I only want to point out to the press that they owe a great responsibility to this House and in giving headlines they should not do anything which can be taken as partisanship or any such thing."

3. After the Chairman's ruling, Shri Gupta withdrew his notice.

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RAJYA SABHA
(1972)

Point of privilege

Alleged misreporting of the proceedings of the House.

Facts of the case and ruling by the Chair

On the 1st June, 1972 Shri Bhupesh Gupta, a member sought to raise a question of privilege against the Editor, Printer and Publisher of the *Statesman*, New Delhi, for publishing in its issue dated the 31st May, 1972, a distorted version of his speech made in the House. He contended that the impugned news report published under the heading 'Congress and C.P.I. exploiting Orissa Drought' imputed that he (Shri Bhupesh Gupta) had suggested to the Government that Orissa Government be toppled, which was not correct. He requested the Chair to warn the press to be more careful while reporting the proceedings of the House.

2. The Deputy Chairman (Shri Gaude Murahari), who was then in Chair, then observed as follows:—

"I have gone through the report of the *Statesman* and I think newspaper reporting should be more careful, not to put anything in the mouth of members. To make fair comments about members' speeches is, of course, within the jurisdiction of the press. They can comment in any manner they like but to make quotation and to say that a particular member has said this when he has not said it, is wrong. I think the paper should be more careful in this respect."

The matter was then closed.

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RAJYA SABHA
(1973)

Point of privilege

Alleged misrepresentation of a member's speech in the House by a newspaper.

Facts of the case and ruling by the Chairman

On the 27th March, 1973, Shri Gunanand Thakur, a member, sought to raise a question of privilege against the Editor of the *Motherland*, New Delhi, and English daily, or attributing to him certain remarks as having been made by him in the House, in its issue dated the 24th March, 1973, which Shri Thakur had not made. Shri Thakur stated that by publishing a false report of his speech in the House, the Editor had committed a breach of privilege and contempt of the House.

2. The Deputy-Chairman (Shri G. Murahari) who was then in the Chair, observed that the matter had already been taken up with the Editor of the newspaper.

3. On the 31st March, 1973, the Chairman (Shri G.S. Pathak) informed the House as follows:—

"I have to inform the members that on the 26th March, 1973, Shri Gunanand Thakur, gave a notice of breach of privilege against the Editor of *Motherland* and its parliamentary correspondent in Rajya Sabha for remarks attributed to Shri Thakur and published in the city edition of that paper of the 24th March, 1973 under the caption 'Safdarjung Bridge and Maruti Limited'. Shri Thakur contended that the above report was false and totally contrary to what he had stated on the subject in the House on the 23rd March, and thereby it had lowered his dignity and that of the House. Shri Thakur also referred to the matter in the House on 27 March, and at that time the Deputy Chairman informed the House that under my direction, the matter had been taken up with the Editor of '*Motherland*' who was asked to let us know what he would like to say in the matter. The Editor of '*Motherland*' in his letter has informed me that he has on enquiry found that some other member's remarks were by mistake attributed to Shri Thakur. He has expressed regret for the mix-up and has also

published in this morning edition his regrets for the mistake. In view of this, I would treat the matter as closed."

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RAJYA SABHA

(1973)

Point of privilege

Alleged misreporting of the proceedings of the House by a newspaper

Facts of the case and action taken by the House

On the 1st August, 1973, Shri S.S. Mariswamy, a member sought to raise a question of privilege against the Editor, *Alai Osai*, a Tamil daily, for allegedly misreporting the proceedings of the House. Shri Mariswamy stated that the said newspaper in its issue dated the 26th July, 1973, under the heading 'Charges levelled against Tamil Nadu Government official in Parliament', had wrongly published a news-item to the effect that Shri A.G. Kulkarni, another member, while putting a supplementary to a Starred Question in the House on the 24th July, 1973, had charged that in the House on the 24th July, 1973, had charged that in the matter of import of stainless steel by a Company in Tamil Nadu, a Deputy Secretary of the Tamil Nadu Government had helped the firm. According to Shri Mariswamy, what Shri Kulkarni had actually stated in the House was that the Deputy Secretary concerned had written to the Government of India in the matter. Therefore, the newspaper by publishing a wrong report of the proceedings of the House had wilfully and intentionally committed a breach of privilege and contempt of the House.

2. The Deputy Chairman (Shri G. Murahari), who was in the Chair, observed that the Editor of the concerned newspaper had been asked to state what he had to say in the matter and that further action would be taken on hearing from him.

3. On the 23rd August, 1973, the Chairman (Shri G.S. Pathak) informed the House *inter alia* as follows:—

"The Editor of *Alai Osai* who was asked to let us know what he had to say in the matter, had first stated that the news-item mentioned above was based on the P.T.I. reports. By a subsequent letter, the Editor stated that the news-item concerned was published on the basis of the publication made in *The Hindu* and *The Hindu* published the same on the basis of the P.T.I.

report. He also expressed regret for the publication of the incorrect version in his newspaper based on the P.T.I. report.

On the basis of the information furnished by the Editor, *Alai Osai*, the matter was taken up with the Editor-in-Chief, PTI. The latter intimated that they had carried an erroneous report on the subject due to misreporting by its reporter and expressed regret for the same. P.T.I. also issued a correction to their earlier report on the subject.

The correct version of the report as now issued by the P.T.I. has since been published in *Alai Osai*, of August 13, 1973, along with an expression of regret for publishing an incorrect version of the report earlier.

In the circumstances, I am treating the matter as closed."

4. The matter was accordingly closed.

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RAJYA SABHA

(1978)

Point of privilege

Alleged misreporting of proceedings of the House by a newspaper

Facts of the case and ruling by the Chair

On the 10th May, 1978, the Chairman (Shri B. D. Jatti) informed the House as follows:—

"I have to inform the House that on the 3rd May, 1978, Shri Surendra Mohan, a Member of this House, gave a notice of breach of privilege against the Editor of *National Herald* for publishing in the issue of the paper dated the 28th April, 1978 a misleading report of the proceedings of the Rajya Sabha relating to the speech of the Minister of Industry made by him while replying to the discussion on the working of the Ministry of Industry on 27th April, 1978. Shri Surendra Mohan in his notice had particularly objected to the misreporting of the Minister's observations on 'Coca-Cola', 'I.B.M.' and Shri K.K. Birla under the caption 'Elders critical of industrial policy.' The report had stated that according to the Minister of Industry, the Coca-Cola and the I.B.M. were closed because the Chairman of the Coca-Cola had contested the Lok Sabha elections in 1977 and the I.B.M. was located in the building of *National Herald*; and that his Ministry would

give consideration to Shri K.K. Birla's support to Smt. Indira Gandhi while dealing with the Birla House from time to time. On verification from the record of relevant proceedings of the House, it was found that the Minister of Industry had not given any such reasons about the closure of the Coca-Cola and I.B.M. as attributed to him in the newspaper report; nor did he hold out any such threat while speaking on the Birlas.

The matter was referred, under my direction, to the Editor of the *National Herald*; New Delhi inquiring from him if he had anything to say in this regard. The Editor in his letter, dated 6th May, 1978, has submitted that the report of the proceedings of the Rajya Sabha of April 27, 1978 published in the *National Herald* of April 28, 1978, did give a misleading impression and had explained the circumstances in which the impugned news-item had been published in the paper. He has further stated that the distortion in the reporting of the Industry Minister's speech was not deliberate and he deeply regretted the inconvenience and embarrassment caused by wrong impression created by the report.

The Editor has since published a correction in the *National Herald* of May 9, 1978 to the effect that Shri Fernandes did not give the reasons about Coca-Cola and I.B.M. and also did not make the threat against Birlas as reported in the paper, and has regretted the mistake.

In view of the expression of regret and correction of the proceedings of the House by the Editor, *National Herald*, if the House agrees, the matter may be treated as closed. However, I do hope that the press would exercise great care in reporting accurately the proceedings of the House so that such misreporting and distortion do not occur in future."

2. The matter was thereafter closed.

328

RAJYA SABHA
(1979)

Point of privilege

Alleged making of false statements and imputing of motives to a member by a news-paper in regard to his speech in the House

Facts of the case and reference to the Committee of Privileges

On 17th May, 1979, Shri P. Ramamurti, a member raised a question of privilege against the Editor, Printer and Publisher of the *Economic Times* for making false statements and attributing motives to him in regard to his speech in the House on 20th March, 1979, regarding BHEL-SIEMENS Agreement in an editorial published in its issue dated 14th April, 1979, under the caption "Inexcusable Dithering".

The impugned editorial read, *inter alia*, as follows:—

"INEXCUSABLE DITHERING

The Union Cabinet's decision to refer the controversial BHEL-SIEMENS tie-up to a sub-committee of its own members, is an incomprehensible piece of procrastination....."

"The most obvious feature of all these arguments is that all of them are technical. They consist of assertions about the technical quality of existing collaborations, and the technical skills of BHEL's design engineers. The paradox of the attacks of the BHEL-SIEMENS deal is that these technical arguments are being put forward almost exclusively by non-technical people. Mr. P. Ramamurti whose pamphlet launched the attack on the deal is a trade unionist, and every page of the pamphlet, as well as of a long letter published in the *Times of India*, reveal his unfamiliarity with technical issues of the kind involved in the deal. Dr. Subramaniam Swamy who has recently added his weight to the attack on BHEL is an economist who specialised in some theoretical aspects of national income calculations and is best known for his estimates of the growth rate attained by China in the fifties and sixties. To the best of our knowledge, none of the Janata members who supported a review of the collaboration agreement are any better qualified in technical matters. In that case the question arises how are these people sheltering behind technological arguments? The answer unfortunately is not far to seek. To most of them the technical arguments are a cloak for allegations that key members of the Ministry of Industry starting from Mr. George Fernandes, have been bribed by the Germans to sell out their country's interests. In the same vein,

Mr. Ramamurti has used the protection afforded to him by the halls of the Rajya Sabha to accuse a journalist who had the temerity to support the BHEL-SIEMENS deal of having taken bribes from the former. Such character assassination is the surest sign that those indulging in it themselves are moved by motives which will not stand the light of day."

While raising the question of privilege, the member, (Shri P. Ramamurthi), *inter alia*, stated as follows:—

"They (the Editor, the Publisher and the Printer) have commented in an editorial on the speech that I had made on the floor of this House.....regarding BHEL-SIEMENS Agreement.... They attach a motivation which I have never stated... I am not saying that Mr. Prem Shankar Jha has been bribed. That is the man who wrote those two articles. I have specifically stated that 'I am not saying that'. Saying something which I have not stated and on that basis coming to the conclusion that I have been motivated by any desire to say that Mr. George Fernandes and other key members of the Ministry of Industry have been bribed by the SIEMENS is a totally unwarranted statement....this is *prima facie*, a case of breach of privilege attributing motives to members, who spoke on this, on unfounded facts."

2. The following motion was, thereafter, moved by Shri P. Ramamurti and adopted by the House:—

"That this House refer the complaint of breach of privilege against the Editor, Printer and Publisher of the *Economic Times*, to the Committee of Privileges."

Findings and recommendations of the Committee

3. The Committee of Privileges, after hearing Shri P. Ramamurti and Shri Prem Shankar Jha, Deputy Editor of the *Economic Times*, in their Eighteenth Report, presented to the House on 17th March, 1980, reported *inter alia*, as follows:—

- (i) "It is well-established that speeches and writings reflecting upon members of Parliament concerning their character or conduct as such members constitute breach of privilege and contempt of the House. One of the examples of such speeches and writings are 'reflections on the motives of a member or a group of members' (May. 19th Edition, pp. 152-53). There have been many instances of both the Houses of

Parliament where writings imputing motives to members for their speeches in the House have been held to constitute breach of privilege and contempt of the House. At the same time the right of a citizen to criticise the views on matters of Parliament has been recognised; but such criticism should be fair and couched in proper language without attributing motives to members. When, however, the citizen exceeds the limit of fair comment or criticism and indulges in imputation of improper motives to a member of Parliament, he brings himself within the penal jurisdiction of the House."

- (ii) "On a perusal of the editorial, the Committee is of the view that the impugned observation in the editorial, namely, 'such character assassination is the surest sign that those indulging in it themselves are moved by motives which will not stand the light of day', and its juxtaposition with the preceding one, namely, in the same vein, Mr. Ramamurti has used the protection afforded to him by the halls of the Rajya Sabha to accuse a journalist who had the temerity to support BHEL-SIEMENS deal of having taken bribes from the former refers to the speech of Shri Ramamurti made in the House on March 20th, 1979, and does attribute ulterior motives to him. In the Committee's view the impugned observation, therefore, constitutes a contempt of the House not only by casting reflection on it but by tending to undermine freedom of speech in Parliament.

- (iii) "However, taking note of the expression of regret by Shri Jha in his oral submission before the Committee as well as the subsequent publication of an apology by the Editor in the issue of *Economic Times* dated March 1, 1980, as directed by the Committee, the Committee recommends that no further action be taken by the House in the matter".

Action taken by the House

4. No. further action was taken by the House in the matter.

329
RAJYA SABHA
(1980)

Point of privilege

Misreporting of a Member's speech by a news-paper

Facts of the case and ruling by the Chairman

On 24th July, 1980, the Chairman (Shri M. Hidayatullah) informed the House as follows:—

"I have to inform the House that on the 26th June, 1980, one of our hon. members, Shri Bipinpal Das, had sought to raise a question of privilege against the Editor of "The Assam Tribune", Gauhati for misreporting his speech in the Rajya Sabha on the 9th June, 1980, while speaking on the Statutory Resolution seeking approval of the House to the continuance in force of the President's Rule in Assam for a further period of six months. On my direction, the matter was referred to the Editor of the news-paper, enquiring from him if he had anything to say in this regard.

The Editor in his letter dated June 27, 1980 informed me that he had published the summary of Shri Bipinpal Das's speech as delivered by him in the House in the column, 'Letter to the Editor', under the caption 'Not Accurately Reported' in the issue of the paper dated 26th June, 1980 at the instance of Shri Bipinpal Das himself who had taken up the matter with the newspaper.

In his letter to the Secretary-General, the Editor had not only regretted the discrepancies in the reporting of Shri Bipinpal Das's speech but also assured that there had been no deliberate attempt on his part to malign an hon. member of the Rajya Sabha or to tarnish his political image.

I however, felt that a mere publication of a summary of the member's speech was not making proper amends in this case. The Editor of the newspaper was, therefore asked to publish his unqualified apology in an issue of the 'Assam Tribune' at a prominent place before the matter could be considered further.

The Editor has since published his apology and expression of regret in the issue of the 'Assam Tribune' dated 13th July, 1980. In view of the publication of the expression of regret and apology by the Editor, if the House agrees, the matter may be treated as closed.

In this connection, I would like to observe that the Press should be circumspect in reporting the proceedings of the House..... If there is editing with a view to *Suppressio veri* or *Suggestio falsi*, then in my sole judgement I shall take

appropriate action. I hope that misreporting and such other things will not occur in future."

The matter was, thereafter, closed.

330
RAJYA SABHA
(1980)

Point of privilege

Describing of Finance (No. 2) Bill, 1980 as finance (No. 2) Act, 1980 in a book by a publisher before the said Bill had been passed by Parliament.

Facts of the case and reference to the Committee of Privileges

On 4th August, 1980, when the Finance (No. 2) Bill, 1980, as passed by the Lok Sabha, was about to be taken up for consideration in the Rajya Sabha to be taken up for consideration in the Rajya Sabha Shri Ladli Mohan Nigam, a member, raised a point of order and invited the attention of the House and the Government to the publication of a book by Messrs Law and Management House of Ghaziabad "fully incorporating all the amendments to the Finance (No. 2) Bill, 1980, as passed by the Lok Sabha." According to Shri Nigam; this amounted to lowering the dignity of Parliament and committing a breach of privilege of the House.

On the same day, sarvashri Narasingha Prasad Nanda, Era Sezhiyan, Ajit Kumar Sharma, N.K.P. Salve, Sadashiv Bagaitkar, Ramanand Yadav, Dinesh Goswami, Murlidhar Chandrakant Bhandare and Shrimati Margaret Alva, members gave notice of a question of privilege against the co-authors-Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg and Messrs Law and Management House, Ghaziabad, publishers of the Book entitled "Garg's Income-Tax Ready Reckoner, 1980-81 and 1981-82", on the ground that the book incorporated the provisions of the Finance (No. 2) Bill, 1980, describing them as provisions of the Finance (No. 2) Act, 1980 even before the said Bill was passed by Parliament and became an Act.

2. On 25th August, 1980 the Chairman (Shri M. Hidayatullah) after considering the matter in the light of the comments received from Shri Dinesh Chandra Garg, referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendations of the Committee of Privileges

3. The Committee, after considering the oral evidence of Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg, in their Nineteenth Report, presented to the House on 3rd December, 1980, reported, *inter alia*; as follows:—

- (i) "The Committee understands that the Government of India in the Ministry of Finance (Department of Revenue) had issued a Press Note dated June 20, 1980 in which it was, *inter alia*, made clear to publishers that to describe, publish and sell the Finance Bill, 1980, as Act before it receive the assent of the President infringed the provisions of the Copyright Act and the sale of any such publication would also amount to an offence of cheating under the provisions of the Indian Penal code. The Press Note also stated that this undesirable practice was brought to the notice of the publishers concerned and they had 'given an undertaking to refrain from doing so in future'."
- (ii) "In his oral evidence before the Committee Shri Dinesh Chandra Garg, owning full responsibility for publication of the book, stated that he wrote the preface to the book on July 30, 1980, under the impression that the Finance (No. 2) Bill, 1980, had been passed by the Lok Sabha on July 29, 1980 or would be passed on July 30th, 1980. He also pointed out that in the title of the book, a reference was made to the Bill and it was designated as Act only while explaining amendments proposed to be made by the Act. The Committee, however, noticed that Shri Garg had been publishing the Garg's Income-tax Ready Reckoner since 1964 and as far as the Committee could ascertain, all the editions of the book from year to year had been brought out before the Rajya Sabha had considered and returned the Finance Bills to the Lok Sabha and the President had assented to them. When Shri Garg was confronted with the fact he again admitted it and stated that it was his error to have published the book and regretted and apologised for the same."
- (iii) "During the oral evidence the Committee drew Shri Dinesh Chandra Garg's pointed attention to the Press Note issued by the Ministry of Finance and ascertained from him whether he

was aware of the issue and contents of the Press Note and whether he was also one of the publishers who had given an undertaking to Government not to indulge in the undesirable practice of prematurely and unauthorisedly publishing the Finance Act. To both these queries, Shri Garg replied in the affirmative. In other words the Press Note was within the knowledge of Shri Garg and he as a publisher had given an undertaking to the Government not to publish the Bill as an Act in Future."

- (iv) "After careful consideration of the facts of the case and the evidence before the Committee, the Committee is of the opinion that the publication of the provisions of the Finance (No. 2) Bill, 1980, in the book entitled "Garg's Income-Tax Ready Reckoner, 1980-81 and 1981-82" (1980 Edition), jointly written by Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg and published by Messrs Law and Management House of Ghaziabad (U.P.) when the said Bill was yet to be considered by the Rajya Sabha, sought to create a misleading impression on the public mind that the aforesaid publication was the Finance (No. 2) Act, 1980, as finally passed by Parliament and assented to by the President when in fact it was not so. The Committee do not give credence to the plea of Shri Dinesh Chandra Garg that the publication took place prematurely because at the crucial time of its publication he was in jail, in view of the fact that he had been habitually publishing such Reckoner in similar circumstances since 1964. He had also admitted that he was aware of the Press Note of the Finance Ministry referred to above and had in fact given an undertaking that he would desist from publishing the Bill as an Act of Parliament. In view of these facts the Committee has no hesitation in holding that the publication of the book amounts to deliberate and wilful effort on the part of its authors and publishers to misrepresent the proceedings and action of the House and, therefore, constitutes a breach of privilege and contempt of the House."
- (v) "Having come to the definite conclusion that Shri Dinesh Chandra Garg and his co-authors and publishers had committed a breach of privilege and contempt of the House, the Committee gave very anxious thought to the nature and extent of the punishment which

should be awarded to the contemnors. In this context the Committee considered the various alternatives or options or modes of punishment that could be awarded for the enforcement of its privilege, namely imprisonment, fine, reprimand or admonition."

(vi) "The Committee was of the view that looking at the circumstances of the case, mere reprimand or admonition especially to Shri Dinesh Chandra Garg appeared to be too inadequate. As regards the imposition of fine, the Committee felt that the type of contempt which had been committed by the co-authors who are also the publishers had also the characteristic of an economic offence inasmuch as these persons by their unauthorised publication had made pecuniary gains out of the same and most appropriate penalty that could be imposed upon them. However, after examining the law and precedents on the subject whether the House had the power to impose the penalty of a fine for the breach of its privilege and after taking competent opinion in the matter, the Committee doubted whether the House possessed any power to impose the penalty of fine."

(vii) "It is quite evident from the facts of the case that Shri Dinesh Chandra Garg has since long been habitually and regularly publishing a book based on the provisions of an annual Finance Bill before it became the Finance Act, thereby misrepresenting proceedings and action of Parliament and deliberately misleading the public into believing that Parliament has given its final seal of approval to the financial proposals. As a person qualified in the professions of law and accountancy, Shri Dinesh Chandra Garg cannot be considered to be ignorant of the constitutional provisions and parliamentary procedures and processes through which a Bill passes before it becomes an Act of Parliament. There is no doubt, therefore, that the only motive in such a publication is making quick money by being first in the market without caring for the privileges of Parliament and other laws of the land or penal consequences of infringement thereof. This offence of Shri Garg has been aggravated by his flouting the undertaking

given to, and almost ignoring the caution sounded by the Ministry of Finance through the Press Note to which a reference has already been made."

(viii) "The Committee is, therefore, of the opinion that a serious view is required to be taken of the breach of privilege committed by Shri Dinesh Chandra Garg in his capacity as the principal author and publisher of the book. The Committee feels that the contemner should not be allowed to escape merely with a formal or customary expression of regret or apology on his part or by a mere reprimand or admonition even though in stern language administered to him in the House. The Committee is convinced that Shri Garg has committed contempt of sufficient gravity so as to deserve the penalty of imprisonment. The Committee, therefore, recommends that Shri Dinesh Chandra Garg be committed to jail till the prorogation of the House without prejudice to any action to which he may be liable for violation of any other law of the land. In the opinion of the Committee such a penalty will not only be justified in the present case but also operate as a deterrent against erring persons and publishers in future. It will also, the Committee hopes, help put an end to an undesirable commercial practice which is being indulged in for long by Shri Garg and others in this line of business."

(ix) "As stated above, Shri Dinesh Chandra Garg has owned fully the responsibility for the publication of the book. The two co-authors, namely, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg were also heard by the Committee along with Shri Dinesh Chandra Garg. From the evidence, it appears that the two co-authors had a very limited role to play in the making of the book. Shri Anil Kumar Garg stated in his evidence before the Committee that he had revised a few chapters and Tables in the book and Shri Vishnu Kumar Garg stated that he had prepared 60-65 Tables of tax calculation. Both of them, however, stated that they worked under the guidance of Shri Dinesh Chandra Garg. In view of the limited contribution of the two co-authors to the preparation of the book, the Committee recommends that though technically

Shri Anil Kumar Garg and Shri Vishnu Kumar Garg are also equally liable as Shri Dinesh Chandra Garg, a lenient view should be taken in their case and they be summoned to the Bar of the House and reprimanded."

- (x) "In considering the present case and recommending the punishment to the contemnors, the Committee has kept itself confined to the examination of the issue from the point of breach of privilege and contempt of the House. The other issue, namely, whether the sale of the publication in the circumstances attracts the provisions of the Copyright Act and the Indian Penal Code, as warned that they do, by the Ministry of Finance in the Press Note referred to above, does not fall within the purview of the Committee. At the same time, the Committee is not oblivious of the fact that there are other publishers who indulge in such an undesirable and illegal practice. The Committee therefore, recommends that Government should examine the matter with a view to initiating legal proceedings not only against the authors and publishers of Garg's Income-Tax Ready Reckoner but also similar other publishers for offences under the Copyright Act and the Indian Penal Code."

Action taken by the House—Reference back to the Committee of Privileges

4. On 11th December, 1980, Shri Pranab Mukherjee, Leader of the House moved the following motion in the House:—

"That the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980, be taken into consideration."

The following amendment to the above motion was moved by Shri M. Kalyanasundaram, a member—

"That at the end of the motion, the following be added, namely:—

'and having considered the same, this House recommitts to the Committee of Privileges for reconsidering its recommendations regarding imposition of punishment on the contemnors'."

The motion, as amended was adopted by the House and the Report of the Committee of Privileges was recommittd to the Committee for reconsidering their recommendations.

Recommendation of the Committee of Privileges

5. The Committee of Privileges, in their Twentieth Report, presented to the House on 19th December, 1980, reported *inter alia*, as follows:—

- (i) "When the Nineteenth Report of the Committee came up before the Rajya Sabha at its sitting held on December 11, 1980, the House adopted the following motion:—

'That the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980, be taken into consideration and having considered the same, this House recommitts to the Committee of Privileges for reconsidering its recommendations regarding imposition of punishment on the contemnors'."

- (ii) "Accordingly, the Committee at its sitting held on December 17, 1980, reconsidered the matter and adopted this report."
- (iii) "In view of the adoption of the aforesaid motion by the House, the Committee, on reconsideration recommends that in the totality of circumstances it would suffice if Shri Dinesh Chandra Garg is also summoned to the Bar of the House and reprimanded along with the other two co-authors Shri Anil Kumar Garg and Shri Vishnu Kumar Garg. The Committee has no doubt that the authority of the House would be vindicated and safeguarded by reprimanding the offenders for the breach of privilege and contempt of the House committed by them."
- (iv) "While suggesting the above modification in the punishment to be imposed on the principal contemner, the Committee reiterates its earlier recommendation contained in paragraph 21 of its Nineteenth Report that Government should examine the matter with a view to initiating legal proceedings not only against the authors and publishers of Garg's Income Tax Ready Reckoner but also similar other publishers for offences under the Copyright Act and the Indian Penal Code."

Action taken by the House

6. On 22nd December, 1980, Shri Pranab Mukherjee moved the following motion which was adopted by the House:—

"That the Twentieth Report of the Committee of

Privileges presentend to the Rajya Sabha on the 19th December, 1980, be taken into consideration."

7. Shri Pranab Mukherjee then moved the following motion which was also adopted by the House:—

"That this House agrees with the findings contained in the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980, and the recommendations contained in the Twentieth Report of the Committee presented on the 19th December, 1980, and resolves that Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg, authors of the book entitled 'Garg's Income-Tax Ready Reckoner 1980-81 and 1981-82', published by Messrs, Law and Management House, 126, Nai Basti, Ghaziabad (U.P.) be summoned to the Bar of the House and reprimanded during the current Session of the Rajya Sabha on a day and time to be fixed by the Chairman."

8. In pursuance of the above decision of the House the following Summons was issued by the Secretary-General, Rajya Sabha, on 22nd December, 1980, separately to Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg to appear in person at the Bar of the Rajya Sabha on 24th December, 1980, to receive the reprimand:—

RAJYA SABHA

SUMMONS TO RECEIVE REPRIMAND

To

Shri Dinesh Chandra Garg/Shri Anil Kumar Garg/Shri Vishnu Kumar Garg, 126, Nai Basti, Ghaziabad (U.P.)

WHEREAS the Committee of Privileges of the Rajya Sabha in its Nineteenth Report reported presented to the Rajya Sabha on December 3, 1980, in the matter of publication of the provisions of the Finance (No. 2) Bill, 1980, as the Finance (No. 2) Act, 1980 in the book entitled 'Garg's Income Tax Ready Reckoner 1980-81 and 1981-82', before the said Bill was passed by Parliament and assented to by the President, was of the opinion that the authors of the said book were guilty

of committing a breach of privilege and contempt of the House;

AND WHEREAS the Committee in its Twentieth Report recommended that Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg be summoned to the Bar of the House and reprimanded;

AND WHEREAS the Rajya Sabha has on December 22nd 1980, adopted the following motion:—

"That this House agrees with the findings contained in the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980 and the recommendations contained in the Twentieth Report of the Committee presented on the 19th December, 1980, and resolves that Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg authors of the book entitled 'Garg's Income Tax Ready Reckoner, 1980-81 and 1981-82' published by Messrs, Law and Management House, 126, Nai Basti, Ghaziabad (U.P.), be summoned to the Bar of the House and reprimanded during the current Session of the Rajya Sabha on a day and time to be fixed by the Chairman".

NOW, THEREFORE, in pursuance of the decision of the House, you are hereby summoned to present yourself in person at 10.30 A.M. on Wednesday, the 24th December, 1980 in the Parliament House, New Delhi to receive the reprimand at the Bar of the Rajya Sabha at 11.00 hours on that day.

Herein fail not.

Dated this Twenty-second day of December, 1980.

Sd/-

(S.S. BHALERAU)

SECRETARY-GENERAL
Rajya Sabha.

By order and in the name of Rajya Sabha"

9. On 24th December, 1980, Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg were brought to the Bar of the House by the Watch and Ward Officer and were reprimanded by the Chairman. In this connection, the following proceedings took place in the House:—

MR. CHAIRMAN: We shall now taken up the item of business regarding the reprimand to Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg.

I urge upon all the Members to observe silence while the contemnors are being reprimanded so that the authority of the House and the significance of the occasion are realised.

Watch and Ward Officer.

WATCH AND WARD OFFICER: Yes, Sir.

MR. CHAIRMAN: Are Shri Dinesh Chandra Garg Shri Anil Kumar Garg and Shri Vishnu Kumar Garg in attendance?

WATCH AND WARD OFFICER: Yes, Sir.

MR. CHAIRMAN: Bring them in.

(Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg were then brought in. They bowed to the Chair and stood at the Bar of the House).

MR. CHAIRMAN: Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg, the House has adjudged you guilty of committing a breach of privilege and contempt of the House for publishing the provisions of the Finance (No. 2) Bill, 1980 as if it was an Act of Parliament before the said Bill was passed by Parliament and assented to by the President, in the book entitled "Garg's Income-Tax Ready Reckoner 1980-81 and 1981-82", of which you are the joint authors. The publication of the provision of the Finance (No. 2) Bill, 1980, in the book when the said Bill was yet to be considered by the Rajya Sabha, sought to create a misleading impression on the public mind that the aforesaid publication was the Finance (No. 2) Act, 1980, as finally passed by the Parliament and assented to by the President when in fact it was not so. This was a deliberate and wilful effort on your part as the authors to misrepresent the proceedings and actions of the House and, therefore, constituted a breach of privilege and contempt of the House.

In the name of the House, I accordingly reprimand you for committing breach of privilege and contempt of the House."
(pause)

"I now direct you to withdraw."

(Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg then bowed to the Chair and withdrew).

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RAJYA SABHA (1981)

Point of Privilege

Alleged misreporting of the proceedings of the House by a newspaper.

Facts of the case and ruling by the Deputy Chairman

On 18th March, 1981, the Deputy Chairman (Shri Shyam Lal Yadav) informed the House as follows:—

"On February 24, 1981, Dr. Bhai Mahavir had given notice of breach of privilege against the Editor of the *National Herald* for misrepresenting his speech in the Rajya Sabha on February 23, 1981 while initiating the calling attention on that day, under the caption 'Opposition Blocks Proceedings' published on the front page of the paper. As per usual practice, on the Chairman's direction the matter was referred to the Editor of the newspaper enquiring from him if he had to say anything in this regard. The Editor in his letter dated March 4, 1981 has stated that the item was published in good faith and that his intention was neither to misreport nor to present Dr. Bhai Mahavir in any unfavourable light. The Editor has expressed regrets for it. As is customary in such cases the Editor was asked to publish a suitable correction in his paper. Accordingly this has been done on the front page in the issue of the *National Herald* of March 13, 1981. In view of the correction and expression of regret for the error, if the House agrees, the matter may be treated as closed.

I would, however, once again like to observe that the press should be more careful in reporting the proceedings of the House. I would also like to impress upon the press that they should promptly offer their comments on privilege matter referred to them. In the instant case, I feel that some delay has taken place."

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RAJYA SABHA
(1981)

Point of Privilege

Misreporting of a member's speech by a newspaper

Facts of the case and ruling by the Vice Chairman

On 29th April, 1981, the Vice Chairman, (Shri Arvind Ganesh Kulkarni) informed the House as follows:—

“On March 17, 1981, Shri B.D. Khobragade had referred in the House to a statement made by Shri A.R. Antulay regarding the creation of Vishal Gomantak State. The *Hindustan Samachar* circulated a report about Shri Khobragade's statement to the effect that Shri Khobragade had stated that Shri Antulay's statements could create tension and a ban should be imposed by Government on making such statements.

Shri B.D. Khobragade gave a notice of breach of privilege against the *Hindustan Samachar* and *Loksatta*, a Marathi Daily of Bombay which had carried the news report as circulated by the *Hindustan Samachar* for distorting and misreporting the speech of Shri Khobragade. On perusal of Shri Khobragade's statement, it was found that he had not made any statement attributed to him by the news agency. An explanation of the news agency *Hindustan Samachar* was accordingly sought in the matter.

The *Hindustan Samachar* has by a news item as published in the *Loksatta* on 22nd April, 1981, expressed regret for the misreporting which as per its explanation occurred owing to inadvertence. In view of the publication of the regret and the disclaimer of any attention on its part to cause embarrassment to Shri B.D. Khobragade, if the House agrees, the matter may be treated as closed. I do hope and trust that *Hindustan Samachar* would be more careful in reporting Members' speeches so that such situations are avoided.

I hope the House agrees.”

The matter was thereafter, closed.

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RAJYA SABHA
(1981)

Point of Privilege

Misreporting of proceedings of the House by a newspaper

Facts of the case and ruling by the Deputy Chairman

On 18th August, 1981, the Deputy Chairman, (Shri Shyam Lal Yadav) observed as follows:—

“I have to inform the House that on May 13th, 1981, Shri Yogendra Makwana, Minister of State in the Ministry of Home Affairs had given a notice of breach of privilege against the Editor of the *Assam Tribune*, Gauhati, for publishing a distorted version of the proceedings of the House of March 12, 1981, in the issue of the paper of March 13th, 1981, in relation to the supplementaries to Starred Question No. 321 regarding issue of identity cards to voters in the North-Eastern region. In the report of the proceedings of the House the paper had attributed a statement that ‘Such identity cards should be issued to all voters irrespective of whether he is a foreigner or not’ to Shri Makwana which he never made. Another statement regarding border pillars between Bangladesh and Meghalaya was made by another member but was attributed by the newspaper to Shri Makwana.

As per usual practice, the Chairman directed that the matter be referred to the Editor of the newspaper enquiring from him if he had to say anything in this regard. The Editor has published a detailed correction under the caption ‘Photograph-cum-identity Cards for Voters: A clarification’ in the issue of the newspaper dated June 20, 1981 and has regretted the impugned news report which contained inaccuracies. The paper has published the correct version of the replies of Shri Makwana to remove any misunderstanding. In his letter dated June 20, 1981, the Editor has also stated that he had no intention to distort what Shri Makwana had stated in the House.

In view of the correction and expression of regret for the error, if the House agrees, the matter may be treated as closed. Does the House agree?”

The House agreed and the matter was, thereafter closed.

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RAJYA SABHA
(1981)

Point of Privilege

Alleged misrepresentation and distortion by a newspaper of a ruling given by the Chairman

Facts of the case and reference to the Committee of Privileges

On 23rd April, 1981 Shri Murlidhar Chandrakant Bhandare and 43 other members gave notice of a question of privilege against the Editor of *Blitz* a weekly published from Bombay and Shri A. Raghavan Chief of its Delhi Bureau for misrepresenting and distorting the ruling of the Chairman delivered in the House on 26th March, 1981, regarding notices of a question of privilege against Shri C.P.N. Singh, the then Minister of State in the Ministry of Defence, in an article published in the Weekly in its issue dated 11th April, 1981, under the caption "Alva blameless says Hidayatullah.....Minister exposed in Centurion deal."

2. On 29th June, 1981, the Chairman (Shri M. Hidayatullah), after considering the reply received from the Editor of the *Blitz* who had been asked to state what he had to say in the matter, referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendations of the Committee

3. The Committee of Privileges, in their Twenty Second Report, presented to the House on 12th March, 1982, reported *inter alia* as follows:—

- (i) "The genesis of the complaint is that on August 6th and 18th, 1980, Shrimati Alva, a member of the House had made a statement in the Rajya Sabha making certain allegations against Shri C. P.N. Singh the then Minister of State in the Ministry of Defence by a personal explanation on November 17th, 1980, Shri Singh refuted the allegations and made certain counter allegations against Shrimati Alva, for which he said he had evidence in his possession. Shrimati Alva disowned the Minister's charge on a personal explanation made in the House on November

20, 1980. Thereafter, Shri Era Sezhiyan and Shrimati Alva gave notices of breach of privilege against the Minister on the ground that the Minister had deliberately made a misleading statement about Shrimati Alva. The Chairman remitted the matter to the Committee for opinion as to whether the statement made by the Minister in the House was supported by the evidence or not or whether it was a misleading statement. On the basis of the findings of the Committee, the Chairman gave a ruling in the House on March 26th, 1981. The gist of the ruling of the Chairman was that Shri Singh had made the impugned statement in the House on November 17th, 1980 on the strength of a document in his possession and so he did not deliberately make a statement in the House which he knew or had reason to believe was misleading. The Chairman also observed:

It is pity that when I allowed the personal explanation of the Minister I took it on trust; otherwise I would not have allowed him to stray into a counter-allegation against the Hon'ble member..... If anybody is to be blamed, it is Michele and I think the Minister should not have placed implicit trust in what he said. I am also of opinion on an examination of dates, etc. that Shrimati Alva's statement is absolutely truthful and there is no stain on her integrity.... I also agree that the Minister himself was misled by Mr. Michele and should not have made this counter charge on such doubtful evidence'.

- (ii) "Immediately after the Chairman's ruling on March 26th, 1981, some members made certain observations in the House thereon. The House adjourned *sine die* on the same date. On March 27th, 1981, a clarification appeared in some news papers regarding the ruling of the Chairman. The Chairman was reported to have clarified that he had no intention to pass any stricture against Shri C.P.N. Singh; that it was not part of his duty to do so. The Chairman was reported to have stated:

'I have read the proceedings after I left the Rajya Sabha and the speeches which were made. I

regret to say that my observations have been unduly played up. The issue was whether when the Minister had said that he had evidence, had he misled the House?

Both the privileges Committee and I have found that he (Mr. Singh) had the evidence. His statement was true that he had the evidence. Whether the evidence was acceptable or not is for the particular person who receives it to decide. I found no malafides or I would have said so. In fact, I have said that the Minister was himself misled. I only thought that the Minister could have ignored that evidence. But that is a matter of one's own opinion and impression'.

(Hindustan Times dated 27-3-1981)"

- (iii) "Subsequently the *"Blitz"* published the impugned article under the caption 'Alva blameless, says Hidayatullah..... Minister exposed in Centurion deal', the latter part in bold letters. The impugned passages in the write up to which the members giving notice of breach of privilege against the *"Blitz"* have particularly taken objection and the reasons therefor are as follows:—

Impugned passage

- (i) 'Chairman Hidayatullah has blasted Minister C.P.N. Singh for his unfounded statements'.

Reasons for objection

'A fair reading of the Chairman's ruling does not give any impression that he had blasted the Minister or that the Minister made any unfounded statements'.

Impugned passage

- (ii) 'The Privileges Committee has completely vindicated Mrs. Alva and found no proof of the Minister's allegation in the House that it was the lady member who had rung up W.R.M. MICHELE and not the other way round which amounted to a dark hint that she, not he, was in collusion with that international gun-runner.

Reasons for objection

'The findings of the Privileges Committee have been distorted inasmuch as the question before the Committee was not whether the allegation

against Shrimati Alva was proved. The worst part of the report is that, it suggests, by inference, that it had been established that Shri Singh was in collusion with the international gun-runner'.

Impugned passage

- (iii) 'Following the strictures, the Parliament lobbies are reverberating with a "Sack Singh Demand".'

Reasons for objection

'It is not only an unfair reading of the Chairman's ruling but is a deliberate distortion to suggest that the ruling contained any strictures against Shri Singh'.

Impugned passage

- (iv) 'Chairman Hidayatullah through his ruling of March 26, virtually convicted him'.

Reasons for objection

'It is a deliberate distortion and false misrepresentation of the Chairman's ruling to suggest that the ruling amounts to conviction of Shri Singh, by implication, for his alleged hand in the alleged corruption in the Centurion deal'.

Impugned passage

- (v) 'And then came the *coup de grace*: "I (also) agree that the Minister himself was misled by (Mr.) Michele". The grey eminence of the Indian judicial world could not have chosen a harsher word. But was C.P.N. Singh only misled? No, he was one of the ring leaders.'

Reasons for objection

'It is a clear distortion and palpable misrepresentation of the Chairman's ruling to suggest that it (the ruling) amounted to any *coup de grace*'.

- (iv) 'The Editor of the *'Blitz'* in his reply has justified the impugned report on grounds of national and international importance of the Centurion tanks deal.

His reply is in four parts:—

- (i) 'In the first part, the *"Blitz"* has stressed the importance—national and international of the centurion tanks deal. This has been given to serve as a background of the impugned *"Blitz"* report of April 11.'
- (ii) 'In the second part, the *"Blitz"* has justified each impugned passage by the remarks and the

reactions of some members to the Hon'ble Chairman's ruling in the House the same day as reported by newspapers.

- (iii) "Is the third part, of the reply, the "Blitz" has reiterated its stand that the "Blitz" report was an expose of the entire gamut of the centurion tanks deal and prayed that the relevant files of the deal be requisitioned from the Ministry of Defence before pronouncing on the "Blitz" report.
- (iv) "In the end, the Editor has justified the impugned reported on the ground of national importance and stated that while publishing the same he did not intend to offend the sensibilities of any member of the Rajya Sabha nor was it in his mind that it would amount to breach of privilege of the House and further that if the publication had unwittingly caused any offence to any member, the "Blitz" could only regret it."
- (v) "The Committee has gone through the impugned write-up in the "Blitz" carefully and considered the complaint of breach of privilege against it in all its aspect. The Committee feels that the Chief of Delhi Bureau of the "Blitz" has distorted the ruling of the Chairman and used intemperate language in relation to the ruling of the Chairman disposing of the complaint of breach of privilege against Shri C.P.N. Singh. The "Blitz" appears to have unduly played up the Chairman's observes, blown them out of proportion and given them the slant which was not intended. The article read as a whole produces an impression and effect which is contrary to what has been stated and intended by the Chairman and to that extent amounts to misrepresentation of the proceedings of the House."
- (vi) "Nevertheless, the Committee feels that it is not necessary to attach undue significance to the write-up especially in the context of the following expressions of regret contained in the concluding part of the Editor's explanation:
'We did not intend to offend the sensibilities of any member of the Rajya Sabha nor was it in our mind that it would amount to a breach of privilege of the House. If the publication has unwittingly caused any offence to any member, we can only regret it.'
- (vii) "In the view taken by the Committee and in the circumstances of the case, the Committee

recommends that the matter need not be pursued further."

Action taken by the House

- 4. No further action was taken by the House in the matter.

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RAJYA SABHA (1982)

Point of privilege

Misreporting of proceedings of the House by a newspaper

Facts of the case and ruling by the Chairman

On 19th February, 1982, the Chairman (Shri M. Hidayatullah) observed in the House as follows:—

"On December 7, 1981 when some members raised a matter in the House about the fire tragedy at the Himalayan Exhibition in Ahmedabad and demanded a statement from the Home Minister, I had directed that the Home Minister should make a statement in the House on the tragedy cutting across all red-tape or rules and everything else. The *Gujarat Samachar* of December 8, 1981 published a report to the effect that I had criticised Shri Yogendra Makwana, the then Minister of State for Home Affairs, in severe terms. Prof. N.M. Kamble, Shri Golandaz M. Husain, Shri Ibrahim Kalaniya and Shri Kishore Mehta gave notice of breach of privilege against the Editor, Printer and Publisher of *Gujarat Samachar* for distorting the proceedings of the House. Under my direction, an explanation of the Editor of the newspaper was sought in the matter.

The Editor of the newspaper by his letter of January 4, 1982, has expressed regret for the distortion which took place on account of some misunderstanding on his part. He has also published the regret in the issue of the paper of January 28, 1982 in the same column where the impugned news item had appeared.

In view of the publication of regret and the disclaimer of any intention on the part of the newspaper to attribute any motive to the Minister, if the House agrees, the matter may be treated as closed. I reiterate that newspapers should report the proceedings accurately so that misunderstandings are avoided."

The matter was thereafter closed.

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RAJYA SABHA
(1985)

Point of privilege

Distortion of the proceedings of the House by the A.I.R. and Doordarshan

Facts of the case and ruling by the Chairman

On 12th August, 1985, the Chairman (Shri R. Venkataraman) observed as follows:—

“Honourable member, on July 29, 1985, Shri Satya Prakash Malaviya gave notice of breach of privilege against the Minister of State in the Ministry of Information and Broadcasting and Directors of A.I.R. and Doordarshan for allegedly distorting the proceedings of the House of July 25, 1985 wherein the Prime Minister had referred to the support given by Shri Charan Singh to the Emergency. Shri Satya Prakash Malaviya averred that even though the Prime Minister did not refer to any letter having been written by Shri Charan Singh in support of the Emergency, the A.I.R. and the Doordarshan in their transmissions at 9 and 10 P.M. respectively stated that Shri Charan Singh had also sent a letter

supporting the Emergency. This, according to Shri Malaviya, was done with the intention of deliberately misleading the public regarding Shri Charan Singh.

After verification of the facts, the matter was taken up with the Minister of State in the Ministry of Information and Broadcasting, Shri Vithal N. Gadgil. Shri Gadgil in his comments admitted that the A.I.R. and the Doordarshan misconstrued the Prime Minister's observations on July 25, 1985 and that Shri Charan Singh's name was inadvertently included amongst those who had written letters to the former Prime Minister supporting the Emergency. Shri Gadgil has, however, disclaimed any intention to lower the prestige of Shri Charan Singh, Shri Gadgil also drew attention to the fact that in the very same English and Hindi news bulletins the media broadcast Shri Charan Singh's denial. In view of this, I think that no further action is necessary. I am sure the House will agree with me that the whole matter should now be closed with the observation that media men should be careful in reporting the proceedings of the House.”

MPLAD SCHEME

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LOK SABHA
(1995)

Point of privilege

- (i) *Alleged non-implementation of member's proposals under the Member of Parliament Local Area Development Scheme by the State Government officers.*

(ii) *Alleged misbehaviour with a member by a Government officer.*

(iii) *Alleged delay in furnishing requisite information to the Speaker, Lok Sabha, by the concerned Ministry of Government of India/officer of the Government of Bihar.*

For Details of the case please see summary No. 59 at p.p. 111-116 ante

MOTIVES—IMPUTATION OF

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LOK SABHA

(1959)

Point of privilege

Alleged attribution of the motive of slander to certain members of Lok Sabha by the Chief Minister of a State.

Facts of the case and reference to the Committee of Privileges

On the 22nd September, 1958 Shri M.R. Masani, a member sought to raise a question of alleged breach of privilege arising out of a telegram reportedly sent by the Chief Minister of Kerala to the Union Minister of Home Affairs in the course of which the Chief Minister of Kerala, according to him, had attributed the motive of slander to certain members of the House. The Speaker observed that he would bring it before the House the next day if he was satisfied that there was a *prima facie* case of privilege.

2. On the 23rd September, 1958, Shri M.R. Masani while seeking to raise the question, referred to a news report issued by the *Press Trust of India* from Trivandrum on the 20th September, 1958 and published in the *Times of India*, Delhi and the *Amrita Bazar Patrika*, Calcutta on the 21st September, 1958 which *inter alia* stated:

"The Kerala Chief Minister, Mr. E.M.S. Namboodiripad, has sent a telegram to the Union Home Minister, Pandit Pant,...according to official sources here

The telegram, the sources said, contended that a State subject could not be discussed in Parliament without the concerned State getting an opportunity to explain its position, especially when some members of Parliament who raised the question 'tried to slander the State Government in the name of explanation.'

Shri M.R. Masani contended that:—

"...In the course of that telegram the Chief Minister is reported to have attributed the motive of 'slander' to certain members, unnamed, of this House.

'Slander' is a very serious charge to make against

hon. members engaged in the pursuit of their duties to the country. If members can be attacked like this and their *bona fide* questioned, freedom of speech in this House is in danger. 'Slander' involves two things; it involves a lie or mendacity and in addition, according to the law and the dictionary, it also involves malice. In other words, the charge is that certain members of this House are *mala fide* misusing their position here to slander against party."

"...I request your permission to raise this matter, so that the House may be able to take a decision either to summon Mr. Namboodiripad to the bar of this House to account for his conduct, or to refer this matter to the Committee of Privileges where this matter can be investigated and a report presented to this House...."

3. Shri H.N. Mukerjee, a member, said that the forum of the House should not be utilised for making "observations in regard to the conduct of the Chief Minister of a State of the Indian Union, without having gone, in the Privileges Committee or elsewhere in your Chamber, into the authenticity of the report and so many other things."

4. Dr. K.B. Menon, a member contended that the reference in the reported telegram was to himself and Shri Asoka Mehta, another member, who had earlier sought to move an adjournment motion in regard to the situation in Kerala. He appealed to the Speaker to protect members' right of freedom of speech in the House.

5. The Minister of Home Affairs (Pandit G.B.Pant) said that:—

"I received a telegram from the Chief Minister of Kerala, I think on the 21st morning or thereabout. In that telegram, he had referred to two matters. One of them was Shri Asoka Mehta's adjournment motion. I had requested him to send me his own reactions to what has been said here and let me have his views as directed by you on the incidents that had been quoted....

The other matter was Dr. K.B. Menon's motion. There he referred to the report that, I think, had appeared in the meantime in the papers that he was presumably to make a statement. He asked me to request the Speaker not to accede to that request at this stage and to let the State Government have the opportunity of stating what they had to say in this connection, so that the whole position may be before the House. I showed that telegram to the Speaker...

I have received another telegram from the Chief Minister today about the telegram that he had sent me previously. I have brought that telegram too to the notice of the Speaker, as desired by him. He has stated therein that there was never any intention of casting aspersions on anybody and so on."

6. As members wanted to know the contents of both the telegrams, the Speaker asked the Home Minister whether he was willing to place them on the Table.

7. Pandit G.B. Pant replied that he had already sent a copy of the second telegram to the Speaker. As regards the first telegram, he said that the Chief Minister of Kerala in his second telegram had stated that his first telegram was confidential.

8. The Speaker then read out the second telegram to the House which was in the following terms:—

"Trivandrum 23 Ste.exp 220 Union Home Minister New Delhi.

Refer my telegram dated twentieth and the motion in Parliament for breach of privilege as reported in Press. I wish to mention that the telegram read as a whole brings out the main point pressed before you namely that you should persuade Honourable Speaker not to permit discussion or explanation by member without affording Kerala State opportunity to state facts and present case. Telegram was purely private and confidential communication urgently made in official confidence with a view to enable you to present Kerala point of view before Honourable Speaker. I never intended to publish this telegram. On the contrary meant for your consumption only. Moreover never intended cast aspersions or reflections on

any member of Parliament or his conduct or proceedings of House. Context makes clear my meaning that if State not allowed to present correct fact and one sided version from a member may appear as slander on Kerala Government. Never meant to make imputation on member but pleaded that if Kerala Government's case not before House impression would be damaging to my Government. Pray explain position to Honourable Speaker and my complete absence of intention to cast aspersion on member or House.

Chief Minister Kerala."

9. A lengthy discussion thereafter took place on the question whether in view of the assertion of the Chief Minister of Kerala that his first telegram to the Home Minister was confidential, the said telegram might be laid on the Table or not. Shri A.K. Sen (Minister of Law) expressed the following views in the matter:—

"The presumption relating to official communications is that they are *prima facie* confidential."

"....it will be impossible to transact official business if communications between the Chief Ministers of States with the Home Ministry or the Prime Minister or the President are subjected to scrutiny on the barest of allegation or on its being reported, assuming correctly, in the papers. They are *prima facie*, confidential and unless there is evidence before you to show *aliunde* that these communications were meant to be communicated to you *qua* Speaker, these communications should not be forced to be brought on the Table of the House...I do not think any evidence has been offered to the contrary to rebut the contention in the latest telegram of the Chief Minister, namely, that he did not intend it to be communicated to any one else. There is no evidence before you to rebut that allegation. I humbly submit that the dignity of the House will be best served if you accept that statement as it is, without trying to question it."

At the end of the discussion, the Speaker observed that he would consider the matter and give a ruling later.

10. On the 27th September, 1953, the Speaker referred to the question of privilege sought to be raised by Shri M. R. Masani and observed:—

"I hold under rule 225(1) that the matter proposed to be discussed is in order and I give my consent under rule 222."

11. Shri M. R. Masani, while asking for leave of the House to raise the question of privilege, recapitulated developments leading to the issue of telegram by Chief Minister of Kerala State. Shri Masani referred to the second telegram sent by the Chief Minister of Kerala to the Union Minister of Home Affairs and contended that:—

".....May I quote a sentence from that telegram to show that there is no denial that the word 'slander' had been used against the hon. members of this House although an attempt has been made to explain away the use of that word? What Mr. Namboodiripad says in his second telegram is—I am quoting from the proceedings of the House:

'Contest makes clear my meaning that if State not allowed to present correct facts an one-sided version from a member may appear as slander on Kerala Government'.

* * *

The second telegram says that no aspersion was cast on anybody. But I may submit there is not any kind of apology or expression of regret for a wrong committed."

12. Since objection to leave being granted was taken, the Speaker after ascertaining that more than twenty-five Members were in favour of leave being granted, declared that leave was granted.

13. Shri M. R. Masani then moved the following motion:—

"That the attention of the House having been drawn by an hon. Member on September 23 to the telegram sent by Mr. E. M. S. Namboodiripad, Chief Minister of Kerala, to Pandit G. B. Pant, Home Minister extracts from which are contained in a report based allegedly on official sources, issued by the *Press Trust of India* from Trivandrum on September 20 and published in the *Times of India*, Delhi and *Amrita Bazar Patrika*, Calcutta, on September 21 in the course of which Mr. Namboodiripad has attributed the motive of slander to some hon. members of this House;

and having taken note of the subsequent telegram from Mr. Namboodiripad to Pandit G. B. Pant, which was read to this House by the Hon'ble Speaker on September 23;

This House resolves that the matter be referred to the Committee of Privileges for investigation as to whether a breach of privileges of the House and of the Hon'ble members concerned has been committed; and whether any contempt of the House thus committed has been adequately purged; and that the Committee be requested to present its report and recommendations for appropriate action at the first day's sitting of the next Session of the Lok Sabha."

14. The discussion on the matter was not concluded on the 27th September, 1958, the last sitting of the Fifth Session of Lok Sabha. The Speaker, therefore, declared in the House that the matter would stand over to the next Session.

15. On the 27th November, 1958, the House resumed discussion on the motion of privilege.

16. The Prime Minister (Shri Jawaharlal Nehru) stated that he "would have preferred if this motion had not been brought". He added that:—

".....There are things said, often enough, which are not desirable and things said in the heat of the moment which, a person, thinking more coolly would not have said.

....if it was a deliberate flouting of the dignity of Parliament or of any individually member of Parliament, then, of course, there can be no doubt that that challenge has to be met. But where in other contexts, in the heat of the moment or in a controversy something is said, I would personally prefer this House not to take too much notice of it...."

17. After some discussion, the motion moved by Shri M. R. Masani, for referring the matter to the Committee of Privileges, was put and adopted by the House.

Findings and recommendations of the Committee

18. The Committee of Privileges, in their Eighth Report, presented to the House on 20th February, 1959, reported *inter alia* as follows:—

The Committee, in the first instance, decided that the telegram, dated the 20th September, 1958 from the Chief Minister of Kerala to the Union Minister of Home Affairs, which was referred to in the news report issued by the *Press Trust of India* from

Trivandrum on the 20th September and published in the *Times of India*, Delhi and the *Amrita bazar Patrika*, Calcutta, on the 21st September, 1958, might be obtained from the Minister of Home Affairs for the consideration of the Committee. The said telegram was accordingly supplied by the Union Minister of Home Affairs.

The Committee also examined Sarvashri M. R. Masani, Asoka Mehta and Dr. K. B. Menon, Members of the House.

In their report, the Committee made *inter-alia* the following observations:—

- (i) "The Committee have compared the said news report with the text of the telegram, dated the 20th September, 1958, from Shri Namboodiripad to the Union Minister of Home Affairs and find that the following statement occurring in the news report does not appear in the telegram received by the Union Minister of Home Affairs:—

...some members of Parliament who raised the question tried to slander the State Government in the name of explanation'."

- (ii) "The Committee, however, find that the word 'slander' occurs in the following sentence in the said telegram:—

'Pray persuade Honourable Speaker that State subject may not fairly be discussed in Parliament without state getting opportunity because explanation of member become mere slander on State Government.'

The Committee note that Shri Namboodiripad, in his subsequent telegram, dated the 23rd September, 1958, to the Union Minister of Home Affairs, has given the following clarification in respect of the above statement:—

'Never intended cast aspersions or reflection on any member of Parliament or his conduct or proceedings of House. Context makes clear my meaning that if State not allowed to present correct facts an one-sided version from a member may appear as slander on Kerala Government. Never meant to make imputation on member but pleaded that if Kerala Government's case not before House impression would be damaging to my Government. Pray explain position to Honourable Speaker and my complete absence of intention to cast aspersion on member or House'."

- (iii) "The Committee feel that the reasonable construction of the relevant sentence occurring in the telegram, dated the 20th September, 1958, should be as follows:—

State subject may not fairly be discussed in Parliament without State getting opportunity otherwise explanation of Member may become mere slander on State Government."

- (iv) "The Committee, after careful consideration of the matter referred to them, are satisfied that Shri Namboodiripad has not attributed the motive of slander to any member of the House in relation to this conduct in the House."

- (v) "The Committee are of opinion that the matter, referred to them does not involve any breach of privilege. The Committee did not feel called upon to consider to decide whether any other matter, not referred to the Committee by the said motion involved any breach of privilege or not. The Committee recommended that no further action be taken in the case."

Action taken by the House

19. On the 24th February, 1959, the following motion was moved by Shri Naushir Bharucha, a member, and was adopted by the House:—

"That the Eighth Report of the Committee of Privileges presented to the House on the 20th February, 1959, be taken into consideration."

20. Shri Radha Raman, another member, then moved the following motion which was adopted by the House:

"That after taking into consideration the Eighth Report of the Committee of Privileges the House is of the opinion that the matter may not be proceeded with."

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LOK SABHA

(1972)

Point of privilege

Attribution of motives to a Parliamentary Committee.

Facts of the case and reference to the Committee of Privileges

On the 13th December, 1972, Shri Indrajit Gupta, a member, raised a question of privilege regarding an affidavit filed by Shri S. S. Khera, I.C.S. (Retired) before the Pipelines Inquiry Commission (Takru Commission) containing an objectionable extract from a letter received by Shri S. S. Khera from

P. R. Nayak, I.C.S. (Retired), in respect of the Sixty-Sixth Report of the Committee on Public Undertakings.

2. While raising the question of privilege, Shri Indrajit Gupta stated that Shri S. S. Khera had filed an affidavit before the Takru Commission which contained *inter alia* the following extract from a letter received by him from Shri P. R. Nayak:—

"I am grateful to you for your ready response to my request today. Certain persons had joined together to induce the parliamentary committee on Public Undertakings to write a report in April, 1970 questioning the decisions and *bona fides* of Government, the Indian Refineries Ltd., and, in the main, of myself as Managing Director/Chairman of the Indian Refineries Ltd., from December, 1960 to August, 1964. Following this report, Government appointed a Commission of Enquiry in August, 1970."

Shri Indrajit Gupta also stated that:—

"You (Speaker) were at that time the Chairman of this Committee and this accusation is made that you and the Committee were induced by certain persons to write that famous 66th report. Mr. P.R. Nayak is the main person against whom charges are pending before the enquiry. I only request you to see that this matter is referred to the Privileges Committee, who are already seized of the matter. Let them go into this also. This also constitutes a breach of privilege."

3. The Speaker referred the matter to the Committee of Privileges, and observed *inter alia* as follows:—

"The Committee is already seized of this matter. This new information also will go to them."

Findings and recommendations of the Committee

4. The Committee of Privileges, after calling for the written explanations of Sarvashri P.R. Nayak and S.S. Khera and after examining them in person also, in their Fifth Report presented to the House on the 4th September, 1973, reported *inter alia* as follows:—

(i) "Shri P.R. Nayak, who was asked by the Committee to state what he had to say in the matter of the complaint against him in his written reply dated the 9th February, 1973, stated *inter alia* as follows:—

"The communication addressed by me to Shri Khera was a strictly private and confidential communication not meant for publication and the purpose of the

communication as will be evident from the perusal of the whole letter, was solely to prepare my defence before the Takru Commission....

The Parliamentary Committee (on Public Undertakings) before making the Report had not given me any opportunity to make my submissions and I sincerely believed that the Committee were persuaded by certain persons to come to some conclusions which I honestly considered to be based on incomplete evidence and appreciation and in respect of which conclusions the Government of India itself found it necessary to appoint a Commission of Inquiry for tendering further advice to the Government.

The word 'induced' was not used by me except to mean 'persuaded'.....

....it is in the context of preparing my defence that the letter was written to Shri Khera. It was never in my mind that the letter should be published. I had not authorised its publication and I respectfully submit that for this reason I should be absolved of any blame for the publication and the resulting consequences, if any.

I meant no reflection whatsoever on the members of Parliament who constitute the Committee on Public Undertakings or on the Committee as a whole and my sole purpose in writing the letter to Shri Khera was to ensure my own proper defence before the Commission of Inquiry.

...I would like to repeat that I had never meant any reflection on the Committee on Public Undertakings and had never intended that my letter to Shri Khera should be publicised. Nevertheless, in the circumstances that have arisen, if I am in any way considered to be blameworthy, I would respectfully request the Committee of Privileges to accept this my unconditional apology and agree not to pursue the matter in so far as I am concerned'."

(ii) "Shri P. R. Nayak in his oral evidence before the Committee, on the 9th May, 1973 stated *inter alia* as follows:—

'.... the word 'induced' was not used by me in any improper sense. It is inconceivable and entirely impossible that a Committee of the Parliament could be induced in any improper sense of that term, to do a certain thing. If at all the use of

the word 'induced' gives rise to any misapprehensions, misgivings or misunderstanding, I have said that I am prepared to apologise to the Committee and I do reiterate my desire to offer that unconditional apology. I did not intend to suggest anything improper or unpleasant when I used this word... all I had in mind was that the Committee probably was persuaded to take certain views as a result of certain material supplied to it by certain persons. I did not suggest that the Committee came to improper conclusions though I have said that I sincerely believe that these conclusions were based on incomplete evidence and that, if I had had an opportunity of furnishing my evidence, the Committee might have come to some other conclusions... Talking of the Committee as a whole, the statement that I have made was not correct. I might have felt that at that time. Today talking of the Committee, I am prepared to say that the Committee was not persuaded or induced or influenced by any extraneous persons... Now, I am prepared to concede that... the Committee came to this conclusion objectively.... I withdraw the words 'certain persons had joined together to induce the Parliamentary Committee on Public Undertakings'. In the circumstances that have arisen, I would request the Committee to accept my apology unconditionally'."

(iii) "Shri S. S. Khera in his oral evidence before the Committee on the 4th July, 1973, stated *inter alia* as follows:—

'I have the deepest regard for Parliamentary Committees... May I take the opportunity of stating forthwith that nothing could be farther from my intentions or my thought than being a party to committing any breach of parliamentary privileges... On reflection, I am quite sure that I should have thought of it (that the impugned affidavit would be circulated by the Takru Commission to various parties in India and abroad and that giving publicity to it was not correct)... I would not only wish to apologise and throw myself on the mercy of this Committee but I would request that I may be purged of any contempt that I may have committed. I think I should like to pay the price if I have committed, even unwittingly, a breach of privilege and I would be happy to be purged of it... What I shall proceed to do is subject to

hon. Privileges Committee seeing nothing wrong in it, that I shall prepare a new Affidavit leaving this (impugned) portion in question. I shall send a covering letter and request the Commission to substitute my new Affidavit for the previous one... If unwittingly, I had been a party to any breach of privilege. I would like here and now to submit an apology, and make such amends as the hon. Committee may direct and I shall carry out the instructions'."

(iv) "Subsequently, in response to the direction of the Committee, Shri S. S. Khera submitted the following documents for their consideration:—

- (i) A copy of the affidavit dated the 1st July, 1972, filed by Shri S. S. Khera before the Takru Commission;
- (ii) The letter (in original) dated the 27th February, 1971, received by Shri S. S. Khera, from Shri P. R. Nayak; and
- (iii) A copy of the letter written by Shri S. S. Khera in reply to Shri P. R. Nayak's letter, dated the 27th February, 1971.

Shri Khera also furnished to the Committee a copy of the revised affidavit submitted by him to the Takru Commission with the request to that Commission that the revised affidavit might be substituted for his original affidavit before the Commission."

(v) "The Committee observe that Shri Khera has omitted from his revised affidavit the following objectionable passage from Shri P. R. Nayak's letter to him, which he had quoted in his original affidavit:—

'Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to write a report in April, 1970, questioning the decisions and bonafides of Government, the Indian Refineres Ltd., and in the main, of myself as Managing Director/Chairman of the Indian Refineres Ltd., from December, 1960 to August, 1964. Following this report...'

- (vi) "In view of the unconditional apology tendered by Shri P. R. Nayak, the Committee are of the view that no further action need to taken in the matter of complaint against him."
- (vii) "Shri S. S. Khera has not only tendered an unconditional apology to the Committee

during his oral evidence before them on the 4th July, 1973, for including the objectionable extract from Shri P. R. Nayak's letter in the affidavit filed before the Takru Commission but has also made an application before the Takru Commission withdrawing his earlier affidavit and filing a new affidavit deleting the said objectionable extract.

The Committee are therefore, of the view that no further action need be taken in the matter of complaint against Shri S. S. Khera."

(viii) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

5. No further action was taken by the House in the matter.

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LOK SABHA
(1985)

Point of privilege

Alleged attributing of motives to members by a Minister in the House

Facts of the case and action taken by the House

On 29th July 1985, while replying to the supplementary questions to Starred Question No. 85 regarding 'Rise in Sugar Price' the Minister of Food and Civil Supplies (Rao Birendra Singh) stated *inter alia* as follows:—

"Sir, a strange phenomenon is now being noticed today. If you permit me to say, whereas everything imported is liked by people in general, imported sugar is not liked by them. Everything foreign is good but imported foreign sugar is not good. Whereas the fact remains that this sugar is purer, this is more sweet than indigenous sugar."

2. Some members then interrupted the Minister by stating "No, It can't be" The Minister thereupon stated as follows:—

"Any hon. member who is saying 'No' to this, who does not accept this fact, is trying to help the industrial lobby, is trying to help the sugar meganate and traders."

3. On 29th July, 1985, Prof. Madhu Dandavate, a member gave notice of question of privilege against

the Minister of Food and Civil Supplies for allegedly attributing motives to members while replying to SQ No. 85 in the House.

4. On 1st August 1985, the Minister of Food and Civil Supplies stated as follows:—

"On 29th July, 1985, while answering supplementaries to S.Q. No. 85 regarding 'Rise in sugar price', I had made certain remarks to which objection was taken by some members. I had then categorically said: 'I want to make it clear that there is nothing like imputation of motive to any hon. Member.'"

If some hon. members still feel dissatisfied, I am sorry to have given occasion for it."

The matter, was thereafter, treated as closed.

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RAJYA SABHA
(1970)

Point of privileges

Attributing motives to a Minister in respect of a statement made by him in the House

Facts of the case and reference to the Committee of Privileges

On the 7th September, 1970, Shri Mahavir Tyagi, a member, raised a question of privilege in the House in respect of a statement made by Shri Ram Nath Goenka as reported in the *Indian Express*, dated the 4th September, 1970, under the heading "Goenka refutes Ministers' charge". The impugned news report read *inter alia* as follows:—

"Mr. Ramnath Goenka today described as 'maliciously misleading' the suggestion by the Minister of State for Industrial Development, Mr. K. V. Raghunatha Reddy, that he had managed to get an accommodation of Rs. 7.89 crores by utilising credit provided to his companies by Government agencies.

In a statement, he said he believed that he was being 'persecuted' because of the critical attitude the *Indian Express* had adopted towards some of the Government's policies.

Mr. Goenka said: 'On Monday last, in the Rajya Sabha, answering a question in regard to the 'malpractices indulged in' by my companies, the Minister for Company

Affairs. Mr. Raghunath Reddy, has stated that the total value of IISCO shares cornered by me amounted to Rs. 12 crores. He added that I had managed to get an accommodation of Rs. 7.89 crores mainly by utilising the funds of the National Company made up of Rs. 4 crores cash credit by the State Bank of India, Rs. 0.89 crores from the National Industrial Development Corporation and Industrial Development Bank of India and Rs. 3 crores by dubious sale purchase of pucca delivery orders. A part from the suggestion being absurd, it is 'maliciously misleading'."

2. After some discussion, the Leader of the House (Shri K.K. Shah), moved the following motion which was adopted by the House:—

"That the complaint of breach of privilege against Shri Ram Nath Goenka be referred to the Committee of Privileges with instructions to report to this House before the end of the next session."

3. On the 6th November, 1971 Shri Krishan Kant, another member, gave notice of a question of breach of privilege arising out of the following statements contained in a writ petition filed on 7 October, 1970 by the National Company Limited and Shri Ram Nath Goenka a Director of the Company, in the High Court of Calcutta:—

"Knowing fully well that the questions and answers could be utilised against your petitioners, the adversaries (i.e.) the Young Turks framed the questions in such a way as to give the impression that your petitioners and the firms connected with your petitioner No. 2¹ have in fact, committed malpractices, although there was no finding of any court nor any pronouncement of any Minister, in the House previously even suggesting that your petitioner or the firms connected, with your petitioner No. 2 have committed any malpractices.

These facts and documents have nothing to do with the questions put by the Young Turks as aforesaid. They were volunteered by the Minister concerned only to cloud the issues and to prejudice the minds of members present in the House as well as the public at large against your petitioners."

4. As the issues involved in this case were sufficiently important from the point of view of members', rights and privileges and as a connected case arising out of the same proceedings of the House had already been referred by the House to the Committee of Privileges on the 7th September 1970, the Chairman, under rule 203 of Rules of Procedure of the Rajya Sabha, referred this matter also to the Committee of Privileges for examination, investigation and report.

Findings and Recommendations of the Committee

5. The Committee of Privileges, after calling for the written explanation of Shri Ram Nath Goenka, in their 13th Report, presented to the House on the 11th June, 1971, reported, *inter alia*, as follows:—

- (i) "It has long been recognised that to print or publish any books or libels reflecting upon the proceedings of the House or any member thereof, for, or relating to, his services therein is a high violation of the rights and privileges of the House. Words or writings reflecting on the House and on members of the House have constantly been punished upon the principle that such acts tend to obstruct the House in the performance of its function by diminishing the respect due to it. It has further been held that written imputations effecting a member of Parliament may amount to a breach of privilege without being libels under common law, provided such imputations concern the character or conduct of the member in that capacity. It is, however for the House to decide whether any particular publication constitutes such an affront to the dignity of the House or its members in that capacity as amounts to a contempt of Parliament."
- (ii) "In his letter dated the 15th October, 1970, Shri Goenka has reiterated the statement published earlier in the *Indian Express* of the 4th September, 1970 and has furnished a lengthy explanation in justification thereof. He contended that the circumstances of the case compelled him to make the impugned statement as there was a deliberate attempt

¹Shri Ram Nath Goenka.

on the part of the Minister to mislead the House in the matter and damage his reputation."

(iii) "The Committee recognises that in a democratic country like ours, every citizen has a right to offer fair criticism and/or comments on a matter which is of public concern and that it is not correct to suggest that a member of Parliament is not liable to be criticised in the performance of his duties as such member. Fair comments or criticism by a citizen on a matter which is of public concern and particularly a statement couched in proper language in which he puts forward his own version of certain facts, which may be contrary to something said on the floor of the House by a member or a Minister, will not be objectionable. When however, the citizen exceeds the limit of fair comment or criticism and indulges in imputations of improper motive to a member of Parliament, he brings himself within the penal jurisdiction of the House and it will be for the House to decide whether such an action constitutes a breach of privilege or contempt of the House. If Shri Goenka had in the statement published in the Press stated his own version of the facts of the case without making any imputation or casting any reflection on the Minister, the question of initiating a case of breach of privilege against him would not have perhaps arisen. Instead of that Shri Goenka has in his impugned statement as also in his reply to the Committee, imputed motive to Shri Raghunatha Reddy, a member of the House, in relation to his service therein and has thus made himself liable for breach of privilege and contempt of the House as his statement would amount to an improper obstruction in the functioning of this House."

(iv) "In the circumstances the Committee has come to the conclusion that Shri Goenka by his statement which appeared in the *Indian Express* of the 4th September, 1970, has committed a breach of privilege and contempt of the House."

(v) "The Committee is aware that Shri Goenka has since been returned to the Lok Sabha during elections held in March, 1971 and taking this fact into consideration, the Committee does not consider it necessary to

recommend any further action in the matter. The Committee, however, observes that responsible persons in public life, should refrain from commenting on the proceedings in Parliament in a manner which would bring them within the penal jurisdiction of the House."

(vi) "For the same reasons the Committee recommends that no further action need be taken on the complaint of Shri Krishan Kant against the National Company Limited and Shri Goenka for certain statements contained in the writ petition filed by them in the High Court of Calcutta."

Action taken by the House

No further action was taken by the House in the matter.

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RAJYA SABHA
(1971)

Point of privilege

Alleged imputation of motives to a member by a newspaper for being absent from the House during voting on a Bill

Facts of the case and reference to the Committee of Privileges

On the 7th April, 1971, Shri A. P. Chatterjee, a member, raised a question of privilege against the Editor, Printer and Publisher of the *Ananda Bazar Patrika*, a Bengali daily of Calcutta, for reproducing a photograph of a wall poster in its issue dated the 19th February, 1971, allegedly imputing motives to Shri Chatterjee for not being present in the House on the 5th September, 1970, when the Constitution (Twenty-fourth Amendment) Bill, 1970 to abolish the Privy Purses, was voted upon by the House. Shri Chatterjee alleged that it was stated in the photograph that the Constitution (Amendment) Bill, 1970, was defeated due to one vote and that vote was of Shri A. P. Chatterjee. He said that the allegation was false and incorrect as many other members were also not present on that day. He, therefore, contended that by publishing this photograph, the paper had committed a breach of privilege and contempt of the House.

2. Shri A. P. Chatterjee then moved the following motion which was adopted by the House:—

"That the complaint by Shri A. P. Chatterjee of breach of privilege against the editor,

printer and publisher of *Ananda Bazar Patrika*, Calcutta for publishing a cartoon on the 19th February, 1971, be referred to the Committee of Privileges, with instructions to report to this House before the end of the next Session."

Findings and recommendations of the Committee

3. The Committee of Privileges, in their Fourteenth Report, presented to the House on the 17th June, 1971, reported *inter alia* as follows:—

- (i) "The photograph.....in fact reproduced five wall posters and the poster at the top left was the one to which objection has been taken. This photograph of the poster which forms the subject matter of the complaint indicates a prince being carried in a palanquin by four bearers describing the two at the left as 'Arun Prakash' and 'Jyoti' and the two at the right as 'Nijalingappa' and 'Atulya'. The poster also contains the following descriptive words and it is to these words that Shri Chatterjee has drawn particular attention in his notice:—

Words appearing at top left

Do you know?

Words appearing at top left

For only one vote the Privy Purse Abolition Bill was not accepted. Whose Vote was it? C.P.M's M.P. Arun Prakash Chatterjee.

Words appearing at the bottom of the poster

Secret love between agent and agent—

Syndicate and C. P. M.
(New Congress)

The following inscription has been added to the photograph by the *Ananda Bazar Patrika*:—

"Walls in Calcutta are also full of cartoons and couplets. Top left New Congress; top right C.P.(M); cartoons and couplets of SUC, RSP and Forward Bloc respectively are at the bottom'."

- (ii) "Shri Chatterjee's contention was that by publishing the aforesaid photograph of the wall poster in *Patrika* a sordid motive had been attributed to him for not being present in the Rajya Sabha on the day of the voting on the Constitution (Twenty-fourth Amendment) Bill, 1970, to abolish the Privy Purses and that a false statement had been made that the one vote that

sealed the fate of that Bill was his vote, though there were other members besides himself who could not be present. He therefore urged that publishing the photograph of the wall poster with the aforesaid descriptive words the Editor and the Printer and Publisher of the *Ananda Bazar Patrika* committed a breach of privilege and contempt of the House."

- (iii) "After considering the matter in detail the Committee noted that the *Ananda Bazar Patrika* in its issue dated February 19th, 1971 published a photograph of five posters purported to have been displayed on the walls of Calcutta by various political parties while campaigning during the recent elections to the Lok Sabha and West Bengal Legislative Assembly held in March, 1971. Considering the circumstances in which the impugned poster had been reproduced in the *Patrika* and recognising that freedom of the Press, to express itself without fear or favour on matters of public import has to be cherished in a democratic society like ours, the Committee came to the conclusion that there was no breach of privilege or contempt of the House involved in the complaint of Shri A.P. Chatterjee and that it was too trivial a matter to be taken notice of by the House."
- (iv) "The Committee accordingly recommends to the House that no action is called for on Shri Chatterjee's complaint."

Action taken by the House

4. No further action was taken by the House in the matter.

343

RAJYA SABHA
(1972)

Point of privilege

Alleged imputation of motives to a member for his speech in the House.

Facts of the case and ruling by the Chairman

On the 7th April, 1972, Shri Bhupesh Gupta, a member raised a question of privilege against Shri T.A. Pai, former Chairman of the Syndicate Bank Ltd., for attributing, in a press statement, malice to him for his speech in the House. Shri Bhupesh Gupta also raised a question of

privilege against Shri C.S. Satya, Editor, *Jwalamukhi*, Bangalore, for publishing Shri Pai's statement and accusing Shri Bhupesh Gupta of blackmail in a telegram sent to him.

2. The Chairman (Shri G.S. Pathak) observed that he would, in the first instance, ask Shri T.S. Pai and Shri C.S. Satya to state what they had to say in the matter.

3. On the 7th August, 1972, the Chairman informed the House as follows:—

"I am to inform members that some time back Shri Bhupesh Gupta gave two notices of breach of privilege, one against Shri T.A. Pai, now a member of this House, and another against Shri C.S. Satya, Editor, *Jwalamukhi*, Bangalore. Shri Gupta also raised the matter in the House and at that time I informed the House that I would first ask Shri Pai and the Editor concerned to let me know what they would like to say in the matter. Shri Pai, in his reply, informed me that, when the news agencies contacted him to know whether he would like to make any statement in view of the observations made by Shri Bhupesh Gupta in the House that he (*viz.* Shri Pai) had sold a building belonging to the Syndicate Bank to his brother abusing his official position, he had told them orally that the allegation was entirely false. Shri Pai wrote to me saying that he did not attribute malice personally to Shri Bhupesh Gupta who, Shri Pai was sure, would not have made the statement if he had known the facts. Shri Pai felt that the source which had given Shri Gupta the information acted out of malice not only to harm Shri Pai personally but also to create misunderstanding between him and Shri Gupta. Shri Pai further assured me that he had no intension at any time to attribute malice to Shri Bhupesh Gupta and he hoped that Shri Bhupesh Gupta would appreciate his feelings. In these circumstances, I decided to take no further action in the matter against Shri Pai.

Shri Satya, Editor *Jwalamukhi*, has, in his telegram and letter to me, expressed his unconditional regrets and apologies. He has requested that his apologies may be conveyed to Shri Bhupesh Gupta for whom he has got the highest esteem and respect. He has further assured me that he would be publishing his unconditional regrets

and apologies in the next issue of his paper. In view of this, I have decided to close the case against the Editor."

The matter was thereafter, closed.

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RAJYA SABHA
(1973)

Point of privilege

Alleged imputation of motives to a member by a newspaper for his speech in the House

Facts of the case and ruling by the Chair

On the 10th December, 1973, Shri Chandra Shekhar, a member, made a complaint to the House against the Editor of *Janyug*, a Hindi daily of Delhi, for publishing an editorial in its issue dated the 8th December, 1973 allegedly imputing motives to him for his speech in the House on the 7th December, 1973. The impugned editorial read *inter alia* as follows:—

"The Congress member, Chandra Shekhar, styles himself as a great leftist but always adopts pro-American, postures. This much support by Shri Chandra Shekhar to this American agent Minhas, who claims himself as an eminent economist, express his own political attitudes."

While raising the point, Shri Chandra Shekhar stated *inter alia* as follows:—

"....It is a clear case of breach of privilege. But I do not intend to move a formal motion of privilege only because this editor does not know his limitations....I just want to bring to your notice and to the notice of the House so that this upstarting journalist could be duly warned so that in future he may behave in a proper way...."

2. Thereupon, the Vice-Chairman (Shri V.B. Raju), who was in the Chair, observed *inter alia* as follows:—

"....The hon. member has raised the point in his narration that the press has not correctly reported what he said here...the press is given the best of facilities in Parliament and it is our hope and desire that it takes sufficient care in reporting the proceedings of the House correctly....Mr. Chandra Shekhar met the Chairman and sought his permission to raise the point with an assurance, with a categorical statement, that he is not formally moving any privilege motion....As far as today's actual raising of the point before the House is

concerned, he has raised it only for the purpose of recording, and it is recorded."

The matter was, thereafter closed.

345

RAJYA SABHA
(1979)

Point of privilege

Alleged making of false statements and imputing of motives to a member by a newspaper in regard to his speech in the House

For details of the case please see summary No. 328 at pp. 477—78 *ante*.

NON-ACCEPTANCE OF COMMITTEE'S RECOMMENDATION

346

RAJYA SABHA

(1956)

Point of privilege

Non-acceptance of recommendation of Subordinate Legislation Committee by Government.

Facts of the case and action taken by the House

On the 28th August, 1956, during discussion on a motion for concurrence in the resolution adopted by Lok Sabha on 22nd August, 1956, for modification of Displaced Persons (Compensation and Rehabilitation) Rules, Diwan Chaman Lall, a member, stated that on the recommendation of the Advisory Board as well as the support of the hon. Minister for Rehabilitation, the House had passed Rule 19 in September, 1955. On 12th January, 1956, an officer of the Ministry of Rehabilitation issued the following communication to the Chief Settlement Commissioner:—

"I am directed to refer to Rule 19 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, and to say that sons and grandsons, whether major or minor, should not be counted as members of the joint Family, in the life-time of their fathers and grandfathers, for the purposes of computing compensation under sub-rule 2 of the said Rule".

2. The member contended that the result of the communication was to nullify the total effect of that rule as accepted by Parliament. According to Rule 19, sons and grandsons were part and parcel of the undivided Hindu family, but the above interpretation of the rule deprived them of that benefit.

3. The member remarked that even the Committee on Subordinate Legislation of Lok Sabha had opined that there was no justification for the modification of Rule 19 so as to exclude the sons from the benefit of getting compensation when the father was alive and when both were members of a Hindu undivided family. He said that the recommendations of the Committee on Subordinate Legislation as well as those of the Advisory Board attached to the Rehabilitation Ministry, had been ignored by the Rehabilitation Minister. Above all, the decision of Parliament had also been flouted by his department, which constituted a breach of privilege of the House.

4. In support of his contention, Diwan Chaman Lall quoted the following lines from *May's Parliamentary Practice*.

"Disobedience to the orders of either House, whether such orders are of general application or require a particular individual to do or abstain from doing a particular act, or contravention of any rules of either House, is a contempt of that House."

5. Referring to the above objections of Diwan Chaman Lall, Shri H.V. Pataskar, Minister for Legal Affairs, said:—

".....A matter of breach of privilege has been raised on two counts: Firstly, there is an Advisory Committee. I am not concerned as to whether the advice of the Advisory Committee should be preferred or the advice of the hon. Minister of the Government should be preferred.

.....if the Government appoints an Advisory Committee but does not act on the advice of the Advisory Committee, how can you say that it is a breach of privilege?

* * * * *

"Another ground is that there is a Subordinate Legislation Committee....

They have suggested, I am told, that this sub-rule 2 should be deleted. Whatever advice it is, it is not correct to say that supposing that Committee makes some recommendations and Government does not carry out those recommendations, it is not to be regarded as a breach of privilege of the House.

My friend read from *May's Parliamentary Practice*, the object of which is that if there is a direction given by Parliament which the Government or anybody does not carry out, then it becomes a breach of privilege, but that is not the object with which this Delegated Legislation Committee was formed.....

The Committee is to examine and make recommendation. Those matters may be considered. In this case, not only that but that Committee was appointed by the Lok Sabha and when this matter went there, the Lok Sabha itself had passed this amended rule

which has come before this House for confirmation. How can it be any breach of privilege so far as that other House is concerned, because the Committee may say something, but the House is superior to that Committee. So, I submit that both these points with respect to the breach of privilege, are not valid."

6. Replying to the debate, Shri Mehr Chand

Khanna, Rehabilitation Minister, said that the Government's Rehabilitation scheme was fair and exhaustive.

7. The question of breach of privilege was not further discussed and original motion of the Rehabilitation Minister regarding modification of sub-rule (2) of rule 19 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 was put to the House and adopted.

NON-DISCLOSURE OF INFORMATION IN THE HOUSE/COMMITTEES

347

LOK SABHA

(1962)

Point of Privilege

Non-disclosure of information by a Minister on grounds of public interest

Facts of the case and ruling by the Speaker

On the 13th August, 1962, the Defence Minister (Shri V.K. Krishna Menon), while answering supplementary questions of Starred Question No. 218 regarding manufacture of helicopters, declined to give certain information on grounds of public interest. On a point of order being raised by some members, the Speaker (Sardar Hukam Singh) observed, *inter alia*; as follows:—

"Unless I decide that it is not for the Minister to have that privilege the hon. Members need not go on hammering the same point. It is the same thing. It is not in public interest to disclose the numbers, he has said so. The information is known only to the hon. Minister; how far he should disclose it is a matter for him. I cannot interfere in every case. I will give him the privilege to disclose as much as he thinks fit, taking the public interest into consideration. In rare circumstances, where I come to the conclusion that something is being concealed from the House and that the information ought to be given. I would certainly interfere. Otherwise, I will give that option to the hon. Minister, the option or privilege of public interest."

2. Shri U.M. Trivedi, a member, asked whether it was not a question of privilege of the House and suggested the matter to be referred to the Committee of Privileges. The Speaker observed as follows:—

"There is no question of Privileges Committee or anything to be referred to it."

348

LOK SABHA

(1973)

Point of privilege

(i) *Alleged delay in laying answers to certain Unstarred Questions on the Table of the House by a Minister; and*

(ii) *Alleged suppression of answers to certain*

questions by Press Information Bureau from the Press.

For details of the case please see summary No. 180 at p. 321 ante.

349

LOK SABHA

(1982)

Point of Privilege

Allegedly not making available to a Parliamentary Committee a file of the Ministry of Petroleum, Chemicals and Fertilizers required in connection with the examination of a subject taken up by the Committee.

Facts of the case and ruling by the Speaker

On 6th July, 1982, Shri Atal Bihari Vajpayee and on 9th July, 1982, Sarvashri Madhu Dandavate, Harikesh Bahadur, Ram Vilas Paswan and George Fernandes, members, gave notices of a question of privilege against the Prime Minister and the Secretary, Ministry of Petroleum, Chemicals and Fertilizers for allegedly not making available to the Committee on Public Undertakings a file called for by the Committee in connection with the examination of a subject taken up by the Committee.

2. The members had, in their notices *inter alia* alleged that on 24th March, 1982, when the Secretary of the Ministry of Petroleum, Chemicals and Fertilizers was being examined by the Committee on Public Undertakings, he was asked questions about a contract for import of crude and oil products through a Hong Kong based firm, but the Secretary sought two-three weeks time to gather full information in that regard. It was further alleged that as the term of the Committee was to expire on 30th April, 1982, the Committee gave only one week's time to the Secretary who promised to send the required information

by 31st March, 1982, but on 31st March, 1982, the Committee were informed in writing by the Ministry that they were not able to lay their hands on the relevant file. The members contended that this amounted to a deliberate obstruction in the work of the Committee.

3. On 15th July, 1982, the Speaker (Dr. Bal Ram Jakhar) observed in the House as follows:—

“I have received notices of privilege from Shri Atal Bihari Vajpayee, Prof. Madhu Dandavate, Shri Harikesh Bahadur, Shri Ram Vilas Paswan and Shri George Fernandes. The substance of the notices is that the Committee on Public Undertakings had called for File No. P. 20 which they required in connection with examination of a subject taken up by the Committee and it was not made available.

I have carefully gone through the Forty-Seventh Report of the Committee on Public Undertakings on ‘Oil Companies—Imports of Petroleum, Crude and Products and Distribution of Gas’. I have also made available a copy of the Report of the Committee to each of the members who have given the notices of privilege. I have not come across in the Report any observation or recommendation of the Committee to the effect that they had called for a particular file from the Ministry and that it was not made available to them and thereby impeded the examination of the subject.

The members have also in their notices or through separate communications mentioned certain facts which, according to them, have a bearing on the subject of import of crude and oil products through a Hong Kong based firm. It would be recalled that the Committee on Public Undertakings in Paragraph 95 of their Forty-Seventh Report on the subject had concluded that:

The Committee fail to understand why the normal procedure of processing the purchase proposals through the Empowered Committee was not followed in this case. They would await a further enquiry or an explanation in this regard.’

At per well established practice under Direction 102 of the Directions issued by the Speaker, after a Report has been presented by the Committee to the House, the Ministry have to furnish an action taken note in respect of each recommendation of the Committee, which is

scrutinised by the Committee who present an Action Taken Report. It is open to the members, including Shri Som Nath Chatterjee, who has given a censure motion against the then Minister of Petroleum, Chemicals and Fertilizers to furnish pertinent information to the Committee on Public Undertakings who would no doubt take it into account while giving the Action Taken Report.

In the circumstances, the question of giving my consent under Rule 222 of the Rules of Procedure and Conduct of Business to raise the matter in the House as one of breach of privilege, does not arise.”

350

RAJYA SABHA

(1965)

Point of privilege

Non-disclosure of certain information by a Minister in the House.

Facts of the case and ruling by the Chairman

On the 7th May, 1965 Shri Bhupesh Gupta, a member, sought to raise a question of privilege arising out of a statement made by Shri Gulzari Lal Nanda, Minister of Home Affairs, in the House on the 19th February, 1965, with regard to the arrest of certain Communists. Shri Gupta alleged that while making his statement in the House, Shri Nanda had not given the information to the House regarding receipt of letters from two Communist Members of Parliament repudiating the charges against the Communists.

2. Shri Nanda denied that there was any breach of privilege and stated that the Government were not obliged to give publicity on behalf of the Communists.

3. The Chairman reserved his ruling.

4. On the 8th May, 1965, the Chairman (Dr. Zakir Hussain) observed as follows:—

“I have considered the matter relating to the breach of privilege raised by Shri Bhupesh Gupta in the House yesterday. In my opinion there is no *prima facie* case of breach of privilege of the House.”

351
RAJYA SABHA
(1975)

Point of privilege

Alleged withholding of information from the House by a Minister during a discussion on a Calling Attention matter

Facts of the case and ruling by the Chairman

On the 26th March, 1975, Shri Bhairon Singh Shekhawat, a member sought to raise a question of privilege against the Minister of Defence (Sardar Swaran Singh) for allegedly withholding certain information from the House while speaking on a Calling Attention matter regarding leakage of certain vital defence information by two Officers of Indian Air Force.

While raising the question of privilege, Shri Shekhawat stated that on the 17th March, 1975, during discussion on a Calling Attention matter, in reply to a question by Shri Loknath Mishra, another member, 'whether the two gentlemen who indulged in these activities and who are from Soviet Union, belonged to the K.G.B. or they belonged to Soviet Embassy in India, or they were only private citizens of Soviet Union,' the Minister had replied that 'I would like to say quite clearly that they were not private citizens, which class they belong to I do not know'. Shri Shekhawat stated that in a writ petition filed by an Indian Air Force Officer in the Delhi High Court, it had been stated *inter alia* that "he had been instrument in causing security leakage on vital defence information to one Major I. V. Kanavsky, Assistant Military, Naval and Air Attache of the Embassy of the USSR at New Delhi". According to Shri Shekhawat this indicated that the Minister was aware on that day of the information but he did not disclose the same to the House. Thus, he had committed a breach of privilege of the House.

2. The Chairman (Shri B.D. Jatti), observed that he had not allowed the question of privilege but it would be better if the Minister of Defence clarified the position in the House.

3. Thereupon, the Minister of Defence, made *inter alia* the following statement:—

"The first thing is that it is quite interesting that while the questioner was hon'ble Shri Loknath Mishra who is apparently satisfied with my reply, Mr. Shekhawat somehow or the other feels that I gave a wrong reply to Mr. Mishra.. he has read out

a statement but he is not able to point out as to which part in my statement, according to him, is incorrect....He (Shri Mishra) wanted to know whether he belongs to the K.G.B. and I said I do not know. I do not even now...Then it was asked to which particular branch they belonged. I never said that they do not belong to the Soviet Embassy. It is true that the name of the person was Major Kanavsky and he was an Assistant Military Adviser.....Even now I cannot say, nobody can say whether they belong to K.G.B. or to which other branch they belong....that I did not know on that day to which particular branch of the Soviet Embassy he belonged....The question that was asked was as to which branch of the Soviet Embassy he belonged, to which I said 'I have no information.' I have now made enquiries and I find that his designation was Assistant Military Adviser. At that time I had no information as to which branch of the Embassy he belonged. I do not see what is the point for me to suppress if I did not know to which particular branch of the Soviet Embassy he belongs."

Thereafter, the matter was closed.

352
RAJYA SABHA
(1982)

Point of privilege

Allegedly not making available to Committee on public Undertakings a file of a Ministry required in connection with the examination of a subject taken up by that Committee

Facts of the case and ruling by the Chairman

On 14th July, 1982, the Chairman (Shri M. Hidayatullah) observed in the House as follows:—

"Yesterday I informed the House that I had received notices of breach of privilege from Shri A.G. Kulkarni and some other members in connection with the import of High Speed Diesel and Kerosene from Hong Kong which was the subject-matter of the 47th Report of the Committee on Public Undertakings that was submitted to Parliament on April 30, 1982. These notices have been received from the

following members. I read out the names for their satisfaction.

1. Shri A.G. Kulkarni
2. Shri Shiva Chandra Jha
3. Shri Syed Shahabuddin
4. Shri Surendra Mohan
5. Shri Satya Pal Malik
6. Shri Rameshwar Singh
7. Shri Hukmdeo Narayan Yadav
8. Shri Ladli Mohan Nigam
9. Dr. Bhai Mahavir
10. Shri Sadashiv Bagaitkar

They are directed against the Prime Minister and her office, Shri Veerendra Patil, Shri P.C. Sethi and Shri P. Shiv Shankar who are or have been Ministers of Petroleum and Chemicals at one time or another. Shri Lavraj Kumar, the Secretary in the Ministry of Petroleum and Chemicals and Shri Arun Shourie, the Executive Editor of the *Indian Express*. The gravamen of the charge against the Prime Minister, Ministers and Secretary of the Ministry of Petroleum and Chemicals is that they did not make available to the Committee on Public Undertakings the relevant file pertaining to the deal, have caused loss of crores of rupees to the public exchequer and have also obstructed the Committee in the performance of its functions in examining the transaction. The charge against Shri Arun Shourie is that by his article under the caption "The case of the missing file" published in the *Indian Express* of July 1982, Shri Shourie has cast reflections on the Committee and lowered its prestige in the esteem of the public and has disclosed proceedings of the Committee which are of a confidential character.

The notices purport to raise a question of privilege under rule 187 of our Rules which provides that subject to the provisions of these rules, a member may with the consent of the Chairman, raise a

question involving a breach of privilege either of a member or of the Council or a Committee thereof. Stated briefly, a question of breach of privilege has to be restricted only to a matter affecting the Committee of our House. Now, the Committee on Public Undertakings is a Committee set up under Rule 312A of the Rules of Procedure and Conduct of Business of the Lok Sabha. It functions under the direction and control of the Speaker, Lok Sabha. Although 7 members of our House are nominated to associate with the Committee and have equal rights with the members of the Lok Sabha to vote and take part in the proceedings of that Committee, the fact remains that this Committee is essentially and primarily a Committee of the Lok Sabha. Under rule 187 which has been referred to earlier, a question of breach of privilege can only arise in respect of our Committee. The Rajya Sabha does not have any jurisdiction in respect of the Committee of Lok Sabha in the matter of its privileges. The appropriate forum to raise a matter of breach of privilege on ground of withholding information or any file from the Committee or casting any reflection thereon can only be the Lok Sabha.

I understand from the proceedings of the Lok Sabha that some notices of breach of privilege have been given there by the members of the other House. The Speaker in *in seisin* of the matter. The notices given by Shri A.G. Kulkarni and other members are therefore not admissible. I am fortified in my view by an earlier precedent where aspersions were cast on the then Chairman of the Committee on Public Undertakings by Shri J.R.D. Tata wherein a similar view was taken in disposing of notices of breach of privilege of the Committee directed against Shri J.R.D. Tata. I understand that the Committee aforesaid has reserved to itself a further inquiry and will seek explanation.

In view of what has been stated above. I withhold my consent to the raising of the matter as a question of privilege against the Prime Minister, other Ministers, the Secretary of the Ministry of Petroleum and Shri Arun Shourie, in this House."

NON-INTIMATION OF GOVERNMENT COMMITTEE MEETINGS TO MEMBERS

353
LOK SABHA
(1972)

Point of privilege

Failure to send notice of a meeting of a Government Committee to members representing Lok Sabha on that Committee

Facts of the case and action taken by the House

On the 1st August, 1972. Shri Jyotirmoy Bosu a member, sought to raise a question of privilege against the Minister of Foreign Trade and the Chairman, Tea Board, for not sending the notice of the meeting of the newly reconstituted Tea Board to the members representing Lok Sabha thereon. While raising the question of privilege, Shri Bosu stated *inter alia* as follows:—

"Two of the members of this House (Sarvashri Jyotirmoy Bosu and Biswanarayan Shastri were elected to the Tea Board on 17th May, 1972. On 18th May, the Lok Sabha Secretariat drafted and signed the intimation which was actually received by the Foreign Trade Ministry on 19th May.

Now, the Foreign Trade Ministry* and the Chairman, Tea Board, in their anxiety which I will not disclose now, convened the first meeting of the reconstituted Tea Board on 3rd June in Calcutta. In that meeting, they finalised the main Executive Committee and all the Standing Committees for a period of three years, that is, for the entire tenure of the Tea Board. But Shri Biswanarayan Shastri and myself who had been elected to the Tea Board were not invited to that meeting. Therefore, we were deprived of exercising our rights...I now pray that the whole matter be placed before the Privileges Committee.... The proceedings of the meeting of the Committee (Tea Board) held on the 3rd June, 1972 should be entirely nullified and the meeting should be reheard."

2. The Minister of Foreign Trade (Shri L.N. Mishra) stated *inter alia* as follows:—

"So far hon. members, Shri Biswanarayan Shastri and Shri Jyotirmoy Bosu are concerned, their nomination to the Board was notified on 22nd June. The first meeting was held on 3rd June. These two gentlemen could not attend the meeting. There was delay in nominating the

members to the Board...That is why they could not attend it. In that meeting it was for the Chairman of the Tea Board to fix the agenda. There was nothing *malafide*. It is upto the Tea Board Government, as such cannot intervene in the functioning of the Tea Board..."

3. Thereupon, the Speaker observed *inter alia* as follows:—

"I think the Minister may look into the whole thing. I also agree that there are two elected members. What purpose do they go for if they are not given any chance to participate in the meeting...It is not a breach of privilege."

4. Subsequently, the Minister of Foreign Trade, in a letter, dated the 1st August, 1972, addressed to the Speaker, stated *inter alia*:

"It is unfortunate that these two Hon. members who were duly elected by the Lok Sabha to the Tea Board could not be invited to the first meeting of the Board and were thus deprived of participation in the election of the various Standing Committee.

You will appreciate that normally Government would not like to interfere in the work and functioning of any Statutory Board or Committee. However, in compliance with your direction to look into the matter. I have, given it my most careful consideration and as a special case decided under Section 31(1) of the Tea Act, 1953 to cancel the proceedings of the meeting of the Tea Board held on 3rd June, 1972. The Hon. member had only referred to his being deprived of participation in the election to the various Standing Committees, but in order to eliminate any possibility of a further complaint that other important matters were also settled at that meeting without their participation, I have felt it necessary to cancel the proceedings as a whole.

I might mention here that I am issuing instructions in respect of Boards and Committees of this Ministry to which members of Parliament are appointed, to ensure that no notification constituting such Boards would be issued without including the names of members of Parliament."

The matter was, thereafter, closed.

OATH

354

LOK SABHA

(1957)

Point of privilege

Posing as an elected member of the House and taking oath

For details of the case please see summary No. 121 at pp. 237-38 *ante*.

OBJECTION TO APPOINTMENT OF PARLIAMENTARY COMMITTEE

355
LOK SABHA
(1969)

Point of privilege

Reported statement of a Chief Minister that appointment of a Parliamentary Committee to study the situation in a part of his State would amount to interference in the affairs of the State

For details of the case please see summary No. 158 at pp. 302-303 ante.

356
LOK SABHA
(1969)

Point of privilege

Reported opposition of a State Government to a suggestion made in Lok Sabha for sending a Parliamentary Delegation to study the situation there.

Facts of the case and ruling by the Speaker

On the 21st April, 1969. Shri Hem Barua, a member, sought to raise a question of privilege against the Chief Minister of Jammu and Kashmir for the reported opposition of the Government of Jammu and Kashmir to the suggestion made in Lok Sabha and approved by the Speaker that Government might

send a delegation of members of Parliament to Ladakh to study the situation there.

2. Disallowing the question of privilege, the Speaker observed *inter alia* as follows:

"...About the earlier thing, the House discussed it in my absence, when I went to Vienna. You discussed about the matter about Shri Brahmananda Reddy. It was decided that there is no privilege involved. And, this statement is much more milder than the other one. Therefore there cannot be any privilege on this thing. Therefore. I say, there is no privilege involved....

On that the House has taken a decision that there is absolutely no privilege involved. Now I say there is much less case in this. But that does not prevent the Government of India from sending some people. You may not call it a parliamentary delegation. If you go through the records you will see that this is what I said. I said Government might consider it because it is a farflung place; sending a delegation or deputation was a matter Government might consider. Even now Government may consider it. That stands. What I said on that day stands.

But, as I said, there is no privilege in this case."

OBSTRUCTION

357
LOK SABHA
(1956)

Point of privilege

Obstruction caused by police to a member entering Parliament House

Facts of the case and ruling by the Speaker

On the 12th September, 1956, Shri V.G. Deshpande, a member, raised a question of privilege alleging that the police authorities had caused obstruction to him while he was entering the Parliament House compound to attend the sitting of the House that day. He stated that the police had formed a cordon and even when he told them that he was a member of Lok Sabha, the police obstructed him from entering the Parliament House compound. It was with great difficulty that he succeeded in coming to the House. Also, the police did not express regret over the incident. He requested the Speaker to enquire into the matter.

2. The Speaker observed that no member would be obstructed while coming in or going out of the House and would not also be arrested in the compound. He stated that he would make enquiries into the matter and take proper action.

3. On the 13th September, 1956, the Minister of Home Affairs made a statement in the House on the point of privilege raised by Shri V.G. Deshpande on the previous day. The main points of the statement were:—

- (i) A procession of displaced persons reached Lok Sabha outer entrance facing the Parliament Street at 11.30 a.m., on the 12th September, 1956.
- (ii) Shri V.G. Deshpande, M.P., was among the demonstrators and accompanied by three or four persons proceeded towards Lok Sabha Estate. Two constables, about three yards from the entrance, stopped him to ensure his identity.
- (iii) An Inspector, who was only a few yards away, rushed to the spot and recognising Shri Deshpande escorted him in and expressed his regret.

(iv) The entire incident was reported to have taken only four or five seconds.

(v) The Watch and Ward Officer of Lok Sabha was immediately informed about the incident.

(vi) Either Shri Deshpande had come with the demonstrators or his time of arrival had synchronised with the arrival of the demonstrators and, therefore, it was reasonable for the policemen to ensure his identity. The constables did not know him personally, nor anyone knowing him personally interfered with him. Shri Deshpande did not show his identity card to anyone.

(vii) Under the rules, the policemen were required to satisfy themselves about the identity of the member. This was enforced to ensure safety of the members.

(viii) No question of privilege was involved.

4. Shri V.G. Deshpande putforth the following points:—

- (i) He did not come with the demonstrators.
- (ii) He was not accompanied by three or four persons. On the contrary, he was alone.
- (iii) Even though he told the constables that he was a member of Lok Sabha, they did not allow him to enter the Parliament House compound.
- (iv) It was true that after some time a Sub-Inspector came to him.
- (v) The Police officers did not express regrets for the inconvenience caused to him.
- (vi) The Minister of Home Affairs ought to have consulted the member concerned before believing the version given out by the Superintendent of Police.
- (vii) Obstruction caused to a member affects the dignity of the House as a whole.

5. Shri N.C. Chatterjee, a member, pointed out that before the Minister of Home Affairs made a statement in the House, it was his duty to have contacted Shri Deshpande to get his version of the incident since he had been

stopped at the entrance of the Parliament House Estate.

6. Shri S.S. More, another member, stated that this was a serious matter of frequent occurrence and something had to be done to give complete protection to members of Parliament. He thought that the present case amounted to a breach of privilege of member and ought to be referred to the Committee of Privileges for a final decision.

7. The Speaker made the following observations:—

- (i) It was regrettable that any member of Parliament should have been stopped while coming to Parliament.
- (ii) So far as the inside of the Parliament House was concerned, there was sufficient provision to see that such incidents did not occur.
- (iii) But outside the Parliament House compound, a member would have to satisfy the authorities concerned that he was a member of Parliament. Shri Deshpande did not appear to have shown them his identity card.
- (iv) Although it was open to a member to participate in a demonstration, yet the question was as to whether a member could make a demonstration in front of the House because in that case he would be demonstrating against himself.
- (v) Any member desiring to raise a question of privilege should give notice in writing to the Secretary under the rules.
- (vi) In future, whenever he would receive a complaint on a matter of privilege, he would ask the member concerned to supply him with a statement of facts and if any further elucidation was necessary, he would consult the Minister concerned before a final statement was made in the House.
- (vii) In the particular case under consideration, as soon as the Sub-Inspector had recognised Shri Deshpande, he escorted him into the Parliament House Estate. In the circumstances, nothing could be done. If Shri Deshpande had anything further to add, he should write to him.

8. No communication was received from Shri Deshpande, nor was the matter raised in the House again.

358
LOK SABHA
(1956)

Point of privilege

Alleged obstruction caused to a member by the police while entering the Parliament House

Facts of the case and ruling by the Speaker

On the 12th September, 1956, Shri V.G. Deshpande, a member, raised a question of privilege, alleging that the police authorities had caused obstruction to him while he was entering the Parliament House compound to attend the sitting of the House that day.

He added that the police had formed a cordon and even when he told them that he was a member of the Lok Sabha, the police obstructed him from entering the Parliament House compound. It was with great difficulty that he succeeded in coming to the House. The Police had not even expressed regret over that incident. He, therefore, requested the Speaker to inquire into the matter.

2. The Speaker, thereupon, observed *inter alia* as follows:—

"I will certainly see that no member is obstructed, who has got a legitimate right to come into the House, both when they come in and when they go out. So far as the compound is concerned, nobody will be arrested in the compound; and after he goes out, it is for the police and for the general administration to take care, under the circumstances of what they ought to do. So far as this matter is concerned, I will certainly make enquiries immediately...."

3. On the 13th September 1956, the Minister of Home Affairs (Pandit G.B. Pant) stated the Superintendent of Police, New Delhi, who made a personal enquiry into the matter, had reported that on receipt of information that about 8,000 displaced persons would demonstrate in front of the Lok Sabha, a strong contingent of Police including some gazetted officers and upper subordinates were detailed by him to cordon off the Lok Sabha Estate. It was apprehended that the demonstrators would defy the ban and enter the prohibited area. At about 11.30 A.M., the procession of displaced persons arrived at the Lok Sabha outer entrance facing Parliament Street. They were in an agitated mood and the police on duty had been alerted not to allow any demonstrator to defy the ban. Shri V.G.

Deshpande was among the demonstrators and when he, with three or four others, proceeded towards the Lok Sabha Estate, two constables of the D.A.P. checked him to ensure his identity. Inspector B.P. Jetley, S.H.O., Parliament Street Police Station, who was only a few yards away, rushed to the spot seeing Shri Deshpande whom he knew, and escorted him in expressing his regret. The entire incident was reported to have taken not more than four or five seconds. This was about three yards outside the Lok Sabha Estate entrance.

Concluding Pandit Pant stated that Shri Deshpande either deliberately accompanied the demonstrators or the time of his entry happened to synchronise with their presence there.

4. Shri V.G. Deshpande categorically denied either having come with the demonstrators or with three or four persons. In fact, he was coming alone when the police stopped him. He, however, admitted that a Sub-Inspector came, when he was scuffling with the police constables and telling them that he was a member of the Lok Sabha. He stated that before accepting the version given by the Police, it was the duty of the Home Minister, to make enquiries from him also, which was not done. He thought that the Leader of the House himself should have taken up the matter for it involved the dignity of the House. He, however, felt that the proper procedure for making inquiries would have been to refer the matter to the Committee of Privileges, who would have summoned him for cross-examination.

5. Shri N.C. Chatterjee, another member, stated that Shri Deshpande was refused ingress into the Parliament, practically at the door, at the point where he should enter the Parliament's precincts. He thought that before the Minister made a statement, it was his duty to contact Shri Deshpande to get his version; and then it might have been necessary to further pursue the matter with the obstructing police officers.

6. Shri S.S. More, another member, stated that it was a serious matter of frequent occurrence and something had to be devised to give complete protection to members, if their privileges were privileges of substance. He, therefore, suggested that the matter might be referred to the Committee of Privileges.

7. The Speaker thereupon observed *inter alia* as follows:

"It is regrettable that any member of Parliament should be prevented from coming into

Parliament. Shri Deshpande was coming to Parliament, and as a matter of fact, he came to Parliament. Now inside the Parliament here, there are persons and police who see the Members from day-to-day. I have also made provision for some of our Officers and clerks, Watch and Ward, to see them, also to be present there, to avoid any of the unhappy incidents. It may be that, per chance, one of the Watch and Ward Officers may not know; he might not have seen him or out of the five hundred odd members, he may not be able to recognise him; to help him, some others are also posted there. But if it happened outside this compound, each member will have to satisfy the authorities that he is a member of Parliament.

The Minister can only act upon the report that he gets. He has already read out the report. As a matter of fact, he did not tell us that he believed every word of the report. He was cautious enough to say that it may be or it may not be correct.

It is open to any hon. member straight to lead a deputation, or to participate in some demonstration or something of that kind; But I do not know, and I am really considering still whether an hon. member in front of the House can make a demonstration when he himself can be member there, for in that case, he would be demonstrating against himself.

But so far as this is concerned, it is unnecessary for us to decide it. The point is that the hon. member has been prevented. By whom? By certain constables. As soon as the Sub-Inspector saw him from a distance, he came running up, and then told them that he was member of Parliament, thereafter, he brought him inside.

A question of privilege of a member of this House is a privilege of this House.

Any hon. Member wishing to raise a question of privilege should give notice of a motion in writing to Secretary. Yesterday it was raised in an unusual manner. On his way to the House he met me and I allowed him to raise it.

Normally, so far as these matters are concerned, excepting extraordinary cases happening, I do not want any hon. member to raise it here suddenly. When certain facts are not clear on one side, I think the better method would be to put it in writing and send it to me."

359
LOK SABHA
(1964)

Point of privilege

Prevention of a member's entry into Parliament House by Watch and Ward staff under Speaker's orders

Facts of the case and ruling by the Speaker

On the 18th March, 1964, the Speaker (Sardar Hukam Singh) informed the House that he had received the following notice of a question of privilege given by Sarvashri Ram Sewak Yadav and Kishen Patnayak, members:—

"On the 17th March, 1964, at about 7. p.m. a member of the Watch and Ward staff stopped Shri Bagri, member, Lok Sabha, from entering into the main gate of Lok Sabha. The Parliamentary Congress Party was meeting inside the building, and newspaper correspondents were permitted to enter. This amounts to a breach of privilege."

2. After hearing the views of several members the Speaker observed as follows:—

"The first thing is whether a member has a right of his own accord to remain within the precincts of Parliament when Parliament is not sitting or after the time of its adjournment, whether it be five, half past five, six or seven, and how long he can stay and in what circumstances. If a member has something to do in connection with his Parliamentary work, he is allowed to stay in the Parliament House for reasonable time after the House adjourns for the day; but when a member wants to stay there for something which has no connection, with Parliament and when the House is not even sitting, the Speaker has the discretion to allow him or not to allow him. This place cannot be turned into a living accommodation where a person can stay as if in a residence. That is why when Shri Bagri first expressed his desire to stay here, I said that upto a specified time after the rising of the House, members can stay in Parliament House when Parliament is in session and in this case, I had allowed him (Shri Bagri) to stay upto 7 p.m. so that if he had to do some Parliamentary work he might do it. I called the leaders of the Opposition Groups, consulted them and had their approval. They agreed and I allowed him upto 7 p.m. in my opinion this is quite a big concession. Otherwise one cannot stay here after half past five in the evening unless one has some work connected with Parliament. I cannot allow thereafter. I deliberately gave him a special concession by allowing him to stay and move about

upto 7 p.m. and not after that. So, as far as the hon. member is concerned, my permission is only for staying upto 7 p.m. He had neither asked for permission to stay in after that hour nor had he any permission to enter.

Now the question is whether any discrimination was made in favour of the Congress Parliamentary Party. The Congress Parliamentary Party had taken my permission in writing to hold a meeting. They were holding their meeting with my prior permission. These two things cannot be linked up. In one case the person concerned was allowed upto 7 p.m. and after that he did not seek any further permission, orally or in writing. It is, therefore, not correct to say that anybody was shown partiality or there was any discrimination. It is unfair that on the one hand I should give a concession to help the hon. member, though it is quite a big concession I have conceded to Shri Bagri, and, on the other hand, it should be exploited so as to bring a privilege motion here and I be accused of making discrimination. The question of privilege does not arise at all because no member has a right to stay here without obtaining the Speaker's permission. When there is no sitting, no member has any right of his own. So, that ends the question of privilege.

Next comes a question of a broader issue because this question has also been raised by Shri Anthony whether I can create a sanctuary for anybody, whether the Speaker can allow anybody to stay here. I can never tolerate that this House should be turned into a residence but it is correct to assert that this Parliament, and through Parliament the Speaker, has an overall control within the precincts of the Parliament. Shri Anthony has raised the question of an offence committed by a member. I want to say that so far I have received no information about Shri Bagri having committed an offence. I cannot, therefore, hold that he is an offender and I am giving shelter to an offender. I have no such report so far that there is a warrant against Shri Bagri or that he has committed any offence. Shri Bagri himself expressed his desire to stay here and I allowed him. There is, therefore, no such question involved here that I am giving shelter to an offender.

It may also be made clear here that my function and the function of this House is to assist the administration of law and not to impede it and this House will continue to give assistance in

this regard. But, at the same time, it is my duty to safeguard the rights and privileges of the members. I will not tolerate any encroachment, thereon. I want to tell Shri Bagri that although I have no information so far that he has committed any offence or that there is a warrant against him, this concession, cannot go on for a long time and time may soon come when I may have to say that this concession will not continue further.

Thirdly, I cannot tolerate that by having a cot, a table and a chair on the lawns, Shri Bagri should give it a different appearance so as to keep it in public gaze and people should assemble there. I will, therefore, advise him not to do so.

I cannot give these facilities for an indefinite period and therefore, if I withdraw them soon, Shri Bagri should not feel surprised.

.....We should not make it a sanctuary because that lowers our dignity.

A question was also raised that there are Parliaments where a large number of offenders, who commit grave crimes, are given shelter. I cannot differentiate between one offence and another. Whatever be the nature of offence, it is to be treated with same gravity and we are not prepared to give shelter to any offender. But, as I said, it is also our duty to uphold the privileges and the rights of this House within these precincts."

360

LOK SABHA

(1966)

Point of privilege

Alleged obstruction of a members's taxi by a police constable in the precincts of the House

Facts of the case and ruling by the Deputy Speaker

On the 16th March, 1966, Shri Ram Sewak Yadav, a member, sought to raise a question of privilege that while Dr. Ram Manohar Lohia, another member, was going out of Parliament House his taxi was stopped by the police constable on duty to allow the Prime Minister's car to pass by and thus the member was obstructed from proceedings in normal course.

2. The Deputy Speaker (Shri S.V. Krishnamoorthy Rao), who was in the Chair, observed that he would enquire into the matter if a notice was given in writing.

3. On the 17th March, 1966, the Deputy Speaker observed *inter alia* as follows:—

"I have made enquiries into the matter and have been told by the Watch and Ward Officer, Lok Sabha, that the constable on duty while regulating traffic in the normal course had to give a stop signal to the taxi of Dr. Lohia as he had already given pass signal to the traffic coming from the other side. The driver of Dr. Lohia's taxi stopped the taxi. Dr. Lohia came out of the taxi towards the constable on duty and in the meantime the Prime Minister's car coming from the other side (Gate No. 5, Parliament House) passed by. There was thus no intention on the part of the police constable on duty to obstruct the hon. member's taxi from proceeding in the normal course. All that had to be done to avoid any accident and regulate free flow of traffic. There is, therefore, no question of privilege involved."

4. Some members argued that the Prime Minister or other Ministers had no special privileges in the matter of traffic, particularly within the precincts of Parliament House and that all members should be treated alike.

5. The Prime Minister (Shrimati Indira Gandhi) stated *inter alia* as follows:—

"As far as I am concerned, I am the least bothered about pomp, ceremony or any kind of special provisions as an individual. I do feel, however, that the position of the Prime Minister of India should be regarded as something special. It is not a question of one individual as Prime Minister; it applies to all Prime Ministers.

It is true that in some countries nothing special is done, but in the majority of countries, there are very special traffic regulations, escort, pilot cars and so on.....

One thing more. You might perhaps have heard that this rule of stopping the traffic for the Prime Minister's car to pass applies only when the car comes into view; the traffic is not stopped before-hand. And it does not apply to other Ministers. It is only for the Prime Minister."

6. The Deputy Speaker then added:—

"I have heard the Members. I have heard Dr. Lohia. All the three principles enunciated by him are accepted. All members of Parliament are equal. The roads are free in India, but the

police have got a duty to perform, they have to prevent accidents. The statement says that he had already given clear indication to the other side. The Prime Minister of India should be given some consideration. So, there is no question of privilege. I uphold my earlier decision."

361

LOK SABHA

(1970)

Point of privilege

Manhandling and removal of a member by police officers

For details of the case please see summary at No. 486 pp. 94—96 *ante*.

362

LOK SABHA

(1973)

Point of privilege

Alleged refusal by a Government official to permit members to inspect certain files and documents

Facts of the case and ruling by the Speaker

On the 22nd August, 1973, Sarvashri Jyotirmoy Bosu and Madhu Limaye, members, sought to raise a question of privilege against the Director of Urban Estates, Government of Haryana, Chandigarh, for not allowing Shri Bosu and another member, to inspect certain files relating to that Department. While raising the question of privilege, Shri Bosu stated *inter alia* as follows:—

"I have an admitted motion listed in list No. 3 of No Day Yet Named Motions and I am getting ready for speaking on the said motion, for which I am required to do some fact finding. I tried to take all possible precaution so that I do not misquote.

x x x x

On the 20th instant Shri Digvijay Narain Singh, M.P., and myself went and called on the Director, Urban Estates, Haryana, Chandigarh.... I also pointed out to the Director, Urban Estates, Haryana, during our meeting that these are open public documents and I required to see them in connection with the performance of my parliamentary duties.....The said official in the afternoon informed us and also declined us in writing any access for us into these

papers..... This should be sent to the privileges Committee."

2. The Speaker (Dr. G.S. Dhillon) disallowed the question of privilege and ruled as follows:—

"I have carefully gone through it. As far as the question of inspection of files etc., of some department by the members of Parliament is concerned, for which this motion has been tabled, I feel that they do not have this right to inspect any file of any department whichever they may like. They are like other citizens. If they are not allowed an access to some files, they have a remedy as is available to other citizens".

363

LOK SABHA

(1973)

Point of privilege

Maltreatment of and obstruction caused to a member at a Railway Station, while he was proceeding to attend session of the House

For details of the case please see summary No. 145 at pp. 287-88 *ante*.

364

LOK SABHA

(1974)

Point of privilege

Alleged obstruction to a member in carrying out his parliamentary duties and assault on him

Facts of the case and ruling by the Deputy Speaker

On the 28th November, 1974, a member, sought to raise a question of privilege against the Government of Haryana and Haryana Police for obstructing him from carrying out his Parliamentary duties and for assault on him by certain persons. While raising the question of privilege, the member stated *inter alia* as follow:—

"..I was going to Kurukshetra to make on-the-spot enquiry into the lathi-charge made by the police against the students.

....It should be remembered that a major part of the finances of the University like all other universities comes from the University Grants Commission set up under the Central Act and those funds are also part of our budgetary bill.

....When I proceeded to make enquiries into

those matters my vehicle was stopped at the Karnal bypass by the so-called Youth Congress workers who were mainly policemen and Government servants without uniform. Lathis were rained on the vehicle. There was a huge deployment of the police at that point but they deliberately kept themselves at a distance from those hoodlums."

The member contended that all this was pre-planned with a view to obstruct him from carrying out his parliamentary duties and, therefore, constituted a breach of privilege.

2. Disallowing the question of privilege, the Deputy Speaker (Shri G.G. Swell) who was then in the Chair, observed *inter alia* as follow:—

".....It has been a well laid convention that if a member proceeds to attend Parliament as a member of Parliament and if he is obstructed in that process, then it is a privilege."

....As members of Parliament, as leaders, we have many other duties that call us everywhere, and the bigger the person more the duties. When we go out of this House and perform our duties as political leaders we encounter difficulties. Whether that comes within the purview of obstructing a member from doing his duty is a new question which I think the House must go into very carefully.

.....So, I repeat that question is open and it cannot be a question of privilege at this stage."

365

LOK SABHA

(1978)

Point of privilege

Alleged intervention by three members to prevent an ex-Minister from making a statement in the House regarding his resignation from the Council of Ministers

Facts of the case and ruling by the Speaker

On the 7th August, 1978, Shri Vayalar Ravi, a member sought to raise a question of privilege against Sarvashri Madhu Limaye, Rabi Ray and S.N. Mishra, members, for not allowing Shri Raj Narain a member (former Minister of Health and Family Welfare) to make a statement in the House on his resignation from the Council of Ministers. In this connection, Shri Vayalar Ravi referred to the

following reported statement of Shri Raj Narain as published in the *Times of India*, dated the 6th August, 1978:—

"He said his statement on his resignation in the Lok Sabha was dependent on the conditions that might follow. His friends, Mr. Madhu Limaye, Mr. Rabi Ray and Mr. S.N. Mishra, had persuaded him to delay his statement in the Lok Sabha and no date had been fixed for the same. His statement could be modified according to circumstances."

2. The Speaker (Shri K.S. Hegde) disallowed the question of privilege and ruled as follows:—

"It open to a Minister who resigned from the Council of Ministers to make a statement under Rule 199. The discretion is entirely with him, but this is subject to the consent being given by the Speaker. But every member has a right to change his opinion or allow him to be persuaded by the others. Unless there is a complaint that he is forcibly resisted in which case it will amount to a breach of privilege so long as the member himself is willing to be persuaded no question of breach of privilege arises. It is up to him to decide it. So, the point of order is over ruled."

3. The matter was, thereafter closed.

366

LOK SABHA

(1978)

Point of privilege

Shouting of slogans and causing obstruction within the precincts of the House

Facts of the case and action taken by the House

On the 21st December, 1978, during Question Hour, Shri Vinayak Prasad Yadav a member stated in the House as follows:—

"Mr. Speaker, I want to raise a point of order. I was coming from Gate No. 1. There some 15 to 20 youngmen are not allowing any M.P. to come inside the Parliament House and are shouting. Therefore, I request you to get the way cleared so that no one may obstruct the hon. members from coming inside the House....."

A little later Shri Kanwar Lal Gupta, another member complained as under:—

"I was coming to Parliament.... I could not come to the House, I was delayed by 15 minutes..About

10 or 12 people attacked my car...They are obstructing... This is the first time that members have been obstructed like this and they are only a handful of people.... I did not talk to them. I only said 'Kindly allow me', but they did not allow me. It took me fifteen minutes to come here. So, please find out what is the action taken...."

2. The Speaker (Shri K.S. Hegde) then informed the House as follows:—

".....After the complaint was made.....The latest report that I have got is that all those intruders have been separated and left in the charge of the police. I shall go into the matter."

3. Later in the evening the Speaker informed the House as follows:—

"A complaint was made in the morning in the House that a number of persons were shouting slogans within the precincts of the House and also causing obstruction. These persons have been got removed from the precincts of the House by the Watch and Ward and police officers. They are in police custody at present. I think if the House agrees, we can let them off."

The House agreed and they were let off.

367

RAJYA SABHA

(1978)

Point of privilege

Physically restraining a member from addressing the House by another member

For details of the case please see summary No. 137 at pp. 27-72 ante.

368

RAJYA SABHA

(1983)

Point of privilege

Alleged exclusion of members of Rajya Sabha from certain Committees of a State Government

Facts of the case and ruling by the Chairman.

On 16th August, 1983, the Chairman (Shri M. Hidayatullah) observed as follows:—

"The House may recall that on August 9, 1983 Shri S.S. Mohapatra and several other members raised a matter regarding the exclusion of members of the Rajya Sabha from certain

committees of the Government of Orissa. Earlier, Shri Mohapatra, Dr. Mallick and Shri Satya Pal Malik and other members had given notices of breach of privilege in the Matter. On the basis of Shri Mohapatra's letter I had directed that the comments of the Government of Orissa be obtained. I have received the comments of the Chief Secretary to the Committee of Orissa on August 12, 1983, though late in the day. The Chief Secretary has pointed out as follows and I am now quoting the exact words of the Chief Secretary:

'It is not a fact that honourable members of the Rajya Sabha have been excluded from various Government District Committees. They continue to be members of such Committees alongwith honourable members of the Lok Sabha. The State Government has the highest respect and regard for honourable members of the Rajya Sabha and has always treated them at par with the honourable members of Lok Sabha in the matter of giving representation on the State Level Committees/Sub-Committees and District Level Committees as evidenced from the list of Committees given in Annexure-A alongwith copies of relevant Government Resolutions/Orders. However, in respect of the Works Supervision Committees at the Block Level provision has been made for the honourable members of Lok Sabha, who have territorial constituencies, to have a local nominee as a member in these Block Level Works Supervision Committees. This has been done purely from functional point of view as the honourable members of Rajya Sabha do not have any territorial constituency and no disrespect and discrimination whatsoever was intended while clarifying the position in the Government letter No. 7268/CD dated 6th May, 1983 referred to in the enclosure. However, the State Government had since taken a decision to include the nominee of each honourable member of Rajya Sabha as a member in the Works Supervision Committee of the Block in which he or she has permanent residence'.

A list of Committees on which honourable members of our House are represented is also sent. There are two at State level and five at District level.

From this clarification, which I have just read out, it is quite apparent that there was no intention

on the part of the Government of Orissa to discriminate against the members of our House. The misunderstanding arises because of vague and confusing working of the latter to which Shri Mohapatra and others had objected. Now in view of the clarification offered that members of the Rajya Sabha can also send their nominees to those Committees. I do not think the House should occupy itself any further with this matter. Nonetheless, I am directing that the proceedings of the House of August 9, 1983, be forwarded to the Government of Orissa."

369

RAJYA SABHA

(1987)

Point of Privilege

Alleged obstructions to members in carrying out their parliamentary duties and alleged non-intimation of their arrest to Chairman, Rajya Sabha

For details of the case please see summary No. 44 at pp. 87-88 ante.

370

RAJYA SABHA

(1989)

Point of privilege

Alleged prevention of a member from performing his parliamentary duties

Facts of the case and reference to the Committee of Privileges

On the 7th March, 1989, Shri M.S. Gurupadaswamy and some other members raised a matter in the House regarding alleged arrest of Shri Yashwant Sinha, a member, in Chandigarh on the 4th March, 1989 and expressed their concern at his detention in the police station for long hours without assigning any reasons therefor and without producing him before a magistrate. The members referred to Shri Sinha's judicial remand and his transfer to Patiala Jail which, in their view, constituted a deliberate act of intimidation and amounted to preventing him from discharging his parliamentary duties, since the House was in session. The members took serious note of the delay on the part of the authorities in sending intimation about Shri Sinha's arrest to the Chairman, Rajya Sabha, and demanded that stern action be taken against the concerned officials.

2. On the 8th March, 1989, the then Minister of Home Affairs (Shri Buta Singh) made a statement in the House informing about the circumstances leading to the arrest and subsequent release of Shri Sinha. In his statement, the Minister *inter alia* mentioned that on 4 March, 1989, Shri Yashwant Sinha, as part of a programme of courting arrest daily in protest against the action of the enforcement staff against encroachment by 'rehriwalas' in Sector 37 Market in Chandigarh, led a large number of demonstrators in Sector, 17 Shopping Complex and raised slogans. They did not heed to the advice of the police to disperse and not to disturb peace. Consequently, demonstrators numbering 103 including Shri Sinha were arrested, taken to the police station where all facilities and due courtesies were extended to him in keeping with his status as member of Parliament. Shri Sinha and others were ordered to be released by the Sub-Divisional Magistrate on furnishing personal bonds without any surety and on their refusal to do so, they were remanded to judicial custody till 10 March, 1989. As the District Jail in Chandigarh was already full and there was no other accommodations the SDM ordered that Shri Sinha and others be lodged in the District Jail, Patiala. Shri Sinha was even provided with a separate vehicle for travel to Patiala. Following his (Home Minister's) talk with the Governor of Punjab, who was also the administrator of Chandigarh, Shri Yashwant Sinha was eventually released on 8 March, 1989.

3. On the 9th March, 1989, Shri Yashwant Sinha made a Special Mention and informed the House about the ill-treatment meted out to him during his arrest and the misleading information furnished to the Minister of Home Affairs by the Chandigarh Administration in this regard. He denied the version as given to the House by the Minister of Home Affairs and maintained that he was shabbily treated at the police station and no courtesy was extended to him as a member of Parliament.

4. The same day i.e. on 9 March, 1989, Shri Yashwant Sinha gave a notice of question of privilege against the then Advisor to the Administrator, Chandigarh (Shri Ashok Pradhan), the Deputy Commissioner, Chandigarh, the Senior Superintendent of Police, Chandigarh and the Station House Officer Central Police Station, Sector 17, Chandigarh for allegedly ill-treating him during his detention. Shri Sinha *inter-alia* stated that the treatment meted out to him by the police in Chandigarh was contrary to all norms of civilised behaviour and a gross violation of his honour and

dignity as a Member of Rajya Sabha. According to Shri Sinha the Chandigarh Administration has also committed a breach of privilege of the House by mis-informing the Home Minister who had subsequently misled the House in regard to this case.

5. On the 12th May, 1989 the matter was again raised in the House and the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Finding and recommendation of the Committee

6. The Committee of Privileges after considering the Report of the Chandigarh Administration and all other relevant documents in their Thirtieth Report presented to the House on 16 July, 1992 *inter-alia* reported as follows:—

- (i) "In the report of the Chandigarh Administration as well as in the letter dated March 12, 1990 from the then Minister of Home Affairs, more or less the same version of the incident was given as mentioned by the

Minister in his statement in the House on March 8, 1989. The only additional point made in the letter from the Minister was that the Senior Officers of the Chandigarh Administration who could not be present at the time of Shri Sinha's arrest because of their pre-occupation in connection with a religious procession which was to be taken out on the occasion of Maha Shivratri had been told to be careful in future. An almost identical reply was sent to Shri Yashwant Sinha by the then Minister in response to his Special Mention made on March 9, 1989.

- (ii) "In view of the fact that the officers concerned have been warned to be more careful in future, the Committee recommends that no further action to be taken in the matter."

Action taken by the House

7. No further action was taken by the House in the matter.

OFFICERS OF HOUSE—CASES RELATING TO

371
LOK SABHA

(1965)

Point of privilege

Request for permission to examine an official of the House on Commission and also to examine certain records of the House in connection with a case pending in court

For detail of the case please see summary No. 101 at pp. 192—193 ante.

372

LOK SABHA

(1974)

Point of privilege

Carrying of a dagger by a visitor on his person and a suit by him on an official of the House while attempting to enter the Visitors' Gallery

Facts of the case and action taken by the House

On the 26th July, 1974, at about 17.30 hours, the Speaker (Dr. G.S. Dhillon) informed the House as follows:—

"Members please excuse me for a brief interruption. I have to inform the House that today at about 11.05 a visitor calling himself Biplab Basu attempted to enter the Visitors' Gallery of Lok Sabha after getting his pass checked at the checking post. The Senior Watch and Ward Assistant of the Lok Sabha Secretariat who was on duty near the Visitors' Gallery gate found a spring dagger hidden on his person tied on his right leg under his trousers. The said Biplab Basu gave a severe kick to the Senior Watch and Ward Assistant and it was very serious. Our officer rolled and was almost semi-conscious in a very bad state. He was taken into custody immediately by the Watch and Ward Officer. This is a serious matter, I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of Parliamentary Affairs (Shri K. Raghuramaiah), thereupon, moved the following motion which was adopted by the House:—

"That this House resolves that the person calling himself Biplab Basu who at 11.05 hours today attempted to enter the Visitor's Gallery of Lok Sabha with a dagger hidden on his person and who assaulted a Senior Watch and Ward Assistant of Lok Sabha Secretariat, who was on duty near the Visitor's Gallery gate by giving him a severe kick and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that without prejudice to any other action to which he may be liable under the law¹ Biplab Basu be sentenced to rigorous imprisonment till 6 P.M. on Monday, the 26th August, 1974, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

3. In pursuance of the above decision of the House, the Speaker issued the following warrant of commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi:—

"Whereas the Lok Sabha adopted the following motion today, the 26th July, 1974:—

That this House resolves that the person calling himself Biplab Basu who at 11.05 hours attempted to enter the Visitors' Gallery of Lok Sabha with a dagger hidden on his person and who assaulted a Senior Watch and Ward Assistant of Lok Sabha Secretariat, who was on duty near the Visitors' Gallery gate by giving him a severe kick and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that without prejudice to any other action to which he may be liable under the law, Biplab Basu be sentenced to rigorous imprisonment till 6 P.M. on Monday, the

¹On the same day, i.e. the 26th July, 1974, the Watch & Ward officer of Lok Sabha, with the permission of the Speaker lodged with the officer-in-charge of the Police Station, Parliament Street, New Delhi, a written report against the said Biplab Basu for taking necessary action under the law in respect of the criminal offences committed by him.

26th August, 1974 for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

Now, therefore, I, G.S. Dhillon, Speaker, Lok Sabha, in pursuance of the above decision of Lok Sabha by this Warrant of Commitment require the Superintendent, Central Jail, Tihar, New Delhi, to take into custody the said Biplab Basu and to keep him safely in the Central Jail, Tihar, New Delhi, till 6 P.M. on Monday, the 26th August, 1974.

Herein fail not.

Given under my hand and seal at New Delhi this 26th July, 1974.

Sd./—
(G.S. Dhillon)
Speaker."

4. Shri Biplab Basu was accordingly taken by the Watch and Ward Staff to and lodge in the Central Jail, Tihar, New Delhi, to serve out his sentence of imprisonment.

373

LOK SABHA

(1974)

Point of privilege

Carrying of explosives and dagger by a visitor and assault by him on an official of the House while attempting to enter the Visitors' Gallery

Facts of the case and action taken by the House

On the 26th November, 1974, at about 16.40 hours, the Chairman (Shri Nawal Kishore Sinha) informed the House as follows:—

"Hon. members, I have to inform the House that today, at about 12.25 P.M. a visitor calling himself Satenderjeet Singh, son of Sardar Surendra Singh, attempted to enter the Visitors' Gallery of Lok Sabha after getting his pass checked at the checking post. A Watch and Ward Assistant of the Lok Sabha Secretariat on duty near the Visitors' Gallery Gate asked him to declare the belongings on his person. He noticed something bulging out in his coat pocket. On search, it was found to be a glass jar containing some explosives attached to a fuse and crackers. The said visitor immediately took out a dagger hidden on his person and attempted to assault the Watch and Ward Assistant. However he

was overpowered by the Watch and Ward Assistant with the help of other Watch and Ward Assistants. He was taken into custody by the Watch and Ward Officer. This is a serious matter. I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of Parliamentary Affairs (Shri K. Raghuramaiah), thereupon, moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself Satenderjeet Singh, s/o Sardar Surendra Singh, who at 12.25 hours today attempted to enter the Visitors' Gallery of Lok Sabha with explosives and a dagger hidden on his person and who when asked to declare his belongings on his person attempted to assault a Watch and Ward Assistant of Lok Sabha Secretariat on duty near the Visitors' Gallery gate with the dagger and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that without prejudice to any other action¹ to which he may be liable under the law, the said Satenderjeet Singh be sentenced to rigorous imprisonment till 6 P.M. on Friday, the 20th December, 1974, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

3. In pursuance of the above decision of the House, the Speaker issued the following warrant of commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi:—

"Whereas the Lok Sabha adopted the following motion today, the 26th November, 1974:—

"That this House resolves that the person calling himself Satenderjeet Singh s/o Sardar Surendra Singh, who at 12.25 hours today attempted to enter the Visitors' Gallery of Lok Sabha with explosives and a dagger hidden on his person and who when asked to declare his belongings on his person attempted to assault a Watch and Ward Assistant of Lok Sabha Secretariat on duty near the Visitors' Gallery gate with the dagger and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

¹Subsequently, the Watch and Ward, Officer of Lok Sabha, with the permission of the Speaker, lodged a written complaint against the said Satenderjeet Singh with the Parliament Street Police Station in respect of the criminal offences committed by him.

This House further resolves that without prejudice to any other action to which he may be liable under the law, the said Satenderjeet Singh be sentenced to rigorous imprisonment till 6 P.M. on Friday, the 20th December, 1974, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

Now, therefore, I, G.S. Dhillon, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Warrant of Commitment, require the Superintendent, Central Jail, Tihar, New Delhi to take into custody the said Satenderjeet Singh s/o Sardar Surendra Singh, and to keep him safely in the Central Jail, Tihar, New Delhi, till 6 P.M. on Friday, the 20th December, 1974.

Here fail not.

Given under my hand and seal at New Delhi, this 26th November, 1974.

Sd/-
(G.S. Dhillon)
Speaker."

4. Shri Satenderjeet Singh, was accordingly taken by the Watch and Ward Staff to, and lodged in the Central Jail, Tihar, New Delhi, to serve out his sentence of imprisonment.

374
LOK SABHA
(1979)

Points of privilege

Notice received from the High Court of Karnataka in the matter of a Writ Petition requiring appearance of the Secretary, Lok Sabha before the High Court

For details of the case please see summary No. 191 at pp. 335 *ante*.

PARTY MATTERS

375

LOK SABHA

(1965)

Point of privilege

Making of an important statement by the Congress President when the House was in Session

Facts of the case and ruling by the Speaker

On the 14th April, 1965, Shri Bade a member sought to raise a question of privilege arising out of the statement reported to have been made by Shri Kamraj the President of the Congress Party regarding the Cabinet decision to amend the Official Languages Act, when the House was in session.

2. Refusing his consent to raise the matter, the Speaker (Sardar Hukam Singh) observed *inter-alia* as follows:—

“.....Parliament is not being directed or controlled by anybody outside. Any statement that anyone makes there, however eminent he might be, does not matter much so far as we are concerned. He may have his own capacity or his own position. I do not know that, I have already held and told the members that this is no breach of privilege. Even if a Minister makes any statement outside. I have held it so many times that there is no question of any breach of privilege at all. It is only a courtesy that must be shown to the House. There may be some impropriety about that There is no question of any breach of privilege If it had been made by a member of the Government, the question of impropriety would arise, not if somebody makes it.”

376

LOK SABHA

(1970)

Point of privilege

Alleged threat by a Minister at the Congress Parliamentary Party meeting

For details of the case please see summary No. 165 at pp. 309-10 *ante*.

377

LOK SABHA

(1973)

Point of privilege

Alleged directive by a Parliamentary Party to its members not to hobnob with members of other parties

For detail of the case please see summary No. 166 at p. 310 *ante*.

378

LOK SABHA

(1974)

Point of privilege

Alleged intimidation of a member by his Party Leader.

For details of the case please see summary No. 167 at p. 310 *ante*.

379

LOK SABHA

(1978)

Point of privilege

Alleged convening of a meeting of a Parliamentary Party to bring about a Party decision regarding action to be taken on a Report of the Committee of Privileges

For details of the case please see summary No. 160 at p.p. 304-05 *ante*.

380

LOK SABHA

(1984)

Point of privilege

Alleged remarks by a Minister at a party meeting that the Governments of two States will be dumped in sea by the people

Facts of the case and rulings by the Speaker

On 2nd March, 1984, a news-item captioned “J-K. West Bengal Govts., will be ‘dumped’ in sea” was published in the *Indian Express*, which read *inter-alia* as follows:—

“Railway Minister A.B.A. Ghani Khan Chowdhury, said on Thursday that the people of West Bengal and Jammu and Kashmir would soon

'dump' their governments in the Bay of Bengal and Indian Ocean respectively 'with the help of the Central Government'.

Addressing a function at the AICC (I) office here, Mr. Choudhury said that people were fed up with both the Governments. Present on the occasion were his Cabinet colleagues Mr. Pranab Mukherjee, Mr. Vasant Sathe and Mr. H.K.L. Bhagat and the Chief Ministers of Rajasthan and Assam."

2. On 2nd March, 1984, Shri Abdul Rashid Kabuli a member, stated in the House as follows:—

"..Union Minister, Shri A.B.A. Ghani Khan Choudhury has said in the Congress Party meeting:
'that the Congress is going to dump the Jammu and Kashmir and West Bengal Governments...".

When several other members also sought to raise the matter, the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

"You give something in writing. I will write to him and ask if he has said anything like that."

3. Later on the same day, Sarvashri Abdul Rashid Kabuli and Saif-ud-Don Soz, members, sent a joint letter regarding the said news-item. The members had stated in their letter *inter-alia* as follows:—

A news-item captioned J-K, W. Bengal Govts. will be 'dumped' in sea has appeared in *Indian Express* dated Friday March 2, 1984. Mr. A.B.A. Ghani Khan Choudhury, Minister, Railways is stated to have said in AICC (I) party meeting at Delhi stating besides other things 'people of West Bengal and Jammu & Kashmir would soon 'dump' their Governments in the Bay of Bengal and Indian Ocean respectively 'with the help of Central Government'".

4. On 8th March, 1984 when several members sought to raise the matter in the House, the Speaker observed *inter-alia* as follows:—

"The hon. Minister has reproted to me that he has been misquoted and he never said that. He said that the people are responsible and the people will take care of it..I have made an enquiry. I am satisfied..He said that he was misquoted, he never said like that, that the Central Government is going to do this or that".

The matter was thereafter, closed.

381

RAJYA SABHA

(1967)

Point of privilege

Alleged misuse of Powers and threat to members of Madhya Pradesh Assembly by the Prime Minister

For details of the case please see summary No. 171 at p.p. 315-16 ante.

382

RAJYA SABHA

(1967)

Point of privilege

Alleged intimidation of members of Parliament by Ministers/Members in Congress Parliamentary Party Executive meeting

For details of the case please see summary No. 172 at p. 316 ante.

383

RAJYA SABHA

(1969)

Point of privilege

Reported proposal of a Parliamentary Party to take disciplinary action against a member for certain observations made in the House

For details of the case please see summary No. 173 at p. 316 ante.

384

RAJYA SABHA

(1969)

Point of privilege

Alleged threat of disciplinary action by Congress President to a member who announced his intention not to vote for his Party candidate in presidential election

For details of the case please see summary No. 174 at p. 316 ante.

385

RAJYA SABHA

(1971)

Point of privilege

Alleged harassment of a member by his Parliamentary Party for asking a question in the House

For details of the case please see summary No. 153 at p. 295 ante.

PETITION

386

LOK SABHA

(1965)

Point of privilege

Alleged seizure of printed forms of a petition addressed to Lok Sabha, by a Sub-Inspector of Police at Indore while arresting a person under Section 151, Criminal Procedure Code.

Facts of the case and reference to the Committee of Privileges

on the 24th August, 1965, Shri Homi F. Daji, a member, raised a question of privilege in Lok Sabha in the following terms:

"Shri Bhadoria, Sub-Inspector of Police, attached to the Sarafa Police Station, Indore City, arrested one Shri Santosh Kharade, under section 151 Cr. P.C. and started proceedings under section 107 Cr. P.C. against him and seized two forms of petitions addressed to the Lok Sabha demanding release of the Students and reopening of the colleges at Indore. Shri Bhadoria was clearly informed that these forms were to be submitted to the Lok Sabha through the Member of Parliament from Indore. The printed forms seized were themselves self-explanatory. Nonetheless he took the aforesaid action with a view to prevent Shri Kharade to collect signatures and to terrorise others from doing the same.

To petition the Lok Sabha is a constitutional right of a citizen, and Shri Bhadoria's action was aimed at preventing communication from the citizens of Indore to their Member of Parliament to raise the issue before Lok Sabha and was, therefore, clear and palpable breach of privilege of the House. A copy of the petition has been enclosed herewith.

I therefore, move that Shri Bhadoria, S.I. Police, Sarafa Police Station, Indore be summoned before the House and be committed for the breach of privilege of the House and be

punished for the same as the circumstances of the case require."

During the discussion on the question of privilege, Shri Homi F. Daji said that his motion was "not based so much on the arrest" of Shri Santosh Kharade. He added:

"My motion is specifically on this point that two forms have been seized by the police from the custody and house of this person, forms which were addressed to the Lok Sabha. If your own forms addressed to the Lok Sabha are seized even after the Inspector was told that they were to be sent to a Member of Parliament to be presented to the Lok Sabha, it constitutes contempt "without any further ascertainment of facts."

2. The Minister of Home Affairs (Shri G.L. Nanda) said that he would ascertain the facts of the case as early as possible which might show "that there was absolutely no case in support of the motion."

3. The Speaker observed that he would wait for the facts to be ascertained by the Minister of Home Affairs.

4. on the 27th August, 1965, the Minister of Home Affairs informed the House that the facts of the case as ascertained by him through the District authorities were as under:

"It would appear that one Santosh son of Basant Kharade was arrested under Section 151 Cr. P.C. on the 15th August, 1965 at about 8 P.M. While effecting the arrest, three documents were seized, one of them being a printed form of petition addressed to the Lok Sabha in which some space had been left blank for signatures. This form however, did not contain even a single signature. The arrest was in no way connected with the obtaining of the signatures on the petition meant to be presented to the Lok Sabha. Santosh Kharade was released on bail at 11 P.M. the same day. Proceedings have been initiated against him under sections 197 and 112 of the Criminal Procedure Code on the 16th August, 1965, before the Sub-Divisional Magistrate, Indore. The printed form which was seized at the time of his arrest is now part of the court records."

5. The Speaker asked Shri Daji whether he

accepted the facts as stated by the Minister of Home Affairs. Shri Daji replied that "these facts have already been accepted excepting this that the form was seized not from the person who was arrested but from his residence."

Shri Daji added:

"There were two forms in the petition. One was blank, one was signed. Now it appears from the Home Minister's statement that the signed form has been whisked away, and only the unsigned form has been taken to the court. The original petition contained two forms."

6. The Speaker, thereupon, observed:

"He was arrested first and then his house was searched and a form was also found in his house which was blank. There were no signatures on it, and among other papers that was also taken away.

* * *

...in the course of that search one document was found a printed form of a petition that can be addressed to the Lok Sabha. No signatures had yet been obtained.

* * *

Then the only question for determination is this: If the police is searching in the discharge of its duties and if there is some form also, an application that can be and is intended to be used for a petition to Parliament, whether taking possession of that also is a breach of privilege. This much I will send to the Committee to see on that limited point whether this case really forms a breach of privilege."

Findings and recommendations of the Committee

7. The Committee of Privileges, in their Third Report presented to the House on the 20th September, 1965, reported, *inter alia* as follows:—

- (i) "The position obtaining in the House of Commons, U.K. regarding obstruction of, or interference with, the petitioners etc. in the exercise of their rights, has been described by May as follows¹—

'Petitioners and other persons soliciting business before either House or its committees, e.g. counsel, agents and solicitors, are considered as under the protection of the High Court of Parliament and obstruction of or interference

with such persons in the exercise of their rights of the discharge of their duties, or conduct calculated to defer them or other persons from preferring or prosecuting petitions or bills or from discharging their duties may be treated as a breach of privilege.

The following are instances of this type of contempt:

Causing or effecting the arrest on civil process of petitioners or others soliciting business before either House, knowing them to be such, during the continuance of their privilege from arrest *cundo, morando et rede undo*.

Assaulting, insulting, or threatening persons attending to refer petitions or others soliciting business before either House within the precincts of the House.

* * *

Speaking scandalous and reproachful words against petitioners whose petition is appointed to be heard.

* * *

Bringing an action against petitioners for a libel alleged to be contained in a petition presented by them to the House of Commons.

* * *

Casting aspersions on persons for having petitioned the House of Commons."

- (ii) "The instances of breach of privilege cited in *May's Parliamentary Practice* on the subject do not thus include a case of seizure of petition forms addressed to Parliament from a person arrested by the Police on a criminal charge."

- (iii) "As regards communication of information by a citizen to his Member of Parliament for raising a matter in the House based on that information, the position has been described by May thus.

'While witness have been protected from the consequences of evidence given before the House or one of its committees no such protection has been given to informants including constituents who provide information voluntarily to members in their personal capacity the question whether such information is subsequently used in proceedings in

¹May's Parliamentary Practice, 17th Ed., pp. 11—32.

Parliament being immaterial. But while it appears unlikely that any question of an actual or constructive breach of Parliamentary privilege could arise in these cases, the special position of a person providing information to a member for the exercise of his parliamentary duties has been regarded by the courts as enjoying qualified privilege at law.

* * * * *

Administrative action has also been taken to preserve the liberty of the electorate in communicating with Members of Parliament.' (May, 17th Ed. pp. 13233)."

(iv) "The Committee have not come across any case either in the U.K. or in India, where seizure of a petition form addressed to the House and intended to be presented to it through a member of Parliament, by the police, on arresting a person on a criminal charge, was raised as involving a question of breach of privilege or contempt of the House."

(v) The Committee are of the view that in the context of their terms of reference, no question of breach of privilege or contempt of the House is involved in the matter."

(vi) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

8. No further action was taken by the House in the matter.

387

LOK SABHA

(1966)

Point of Privilege

Circulation of a pamphlet purported to be a petition to Lok Sabha before its presentation to the House

Facts of the case and reference to the Committee of Privileges

On the 2nd August, 1966, Shri Madhu Limaye, a member, raised a question of privilege in the House against one Shri Jit Paul (a partner of the firm "Amin Chand Pyarelal") *inter alia* on the ground that he had got printed and circulated a pamphlet purporting to

be a petition¹ to Lok Sabha before its presentation to the House. While raising the question of privilege, Shri Madhu Limaye stated:

"Now, I believe it is a grave breach of privilege and contempt of the House to print a petition and circulate it before it has been formally presented to the Lok Sabha.

This petition, I find, has not been presented to the House.

The contempt of the House becomes all the more serious because the petition is no ordinary petition ventilating a certain grievance; it traverses the finding of the Fiftieth Report of the Public Accounts Committee and seeks to prejudice members adversely against the Public Accounts Committee by bringing undue influence on members—members who do not have any of the materials that led the Public Accounts Committee to make the report.

Assuming that the said petition had been presented to Parliament with the Speaker's consent, even so, it would be a breach of privilege because I think the petition cannot be circulated without the sanction of the Committee on Petitions.

Further, this printed matter bears no printers line and so whoever printed it has also committed breach of privilege and should be hauled up."

2. The Speaker (S. Hukam Singh) observed that every citizen had a right to submit a petition to Parliament through a member of Parliament and for that purpose he could approach several members, one after another, to try to get his petition countersigned and have it presented to the House by a member. He could not also be prevented from having his petition printed before its presentation to the House. But so far as the allegation made against Shri Jit Paul circulating his petition before presentation to the House was concerned that could be enquired into and action taken by the House. As regards the complaint that Shri Jit Paul's pamphlet did not bear the printer's line, the Speaker observed that the matter would be brought to the notice of the Minister of Home Affairs whose function it was to take necessary action in the matter.

¹In the purported petition, Shri Jit Paul had stated his version of facts about the firm "Amin Chand Pyarelal." commented upon by the Public Accounts Committee of Lok Sabha in their 50th Report and prayed for an opportunity being given to the firm to place their version of facts before the Public Accounts Committee.

3. On the 23rd August, 1966, the Speaker made the following announcement in the House:—

“On the 2nd August, 1966, Shri Madhu Limaye had sought to raise a question of privilege against one Shri Jit Paul of M/s. Amin Chand Pyarelal for having printed and circulated a pamphlet which purported to be a petition to Lok Sabha before its presentation to the House. I had said that I would enquire whether copies thereof had been circulated. I called for an explanation of the person concerned. I have now received the following reply dated the 18th August, 1966 from Shri Jit Paul:—

‘I or my representative have never circulated any copy of our Petition to any member of Parliament or to anybody else. I however met the following members of Parliament to seek their advice as to how to proceed about the matter. I also handed over to them a copy each of this petition explaining my position:—

Shri Rajeshwar Patel

Shri Madhu Limaye

Shri Gaure Murahari

This copy was merely of the 1st part of the Petition and not of the 2nd part which contains the various schedules. I have not circulated any copy to anyone by post. I might state that at none of these meetings I had the feeling that I was taking a wrong step nor had I any indication from any one of the honourable members mentioned above whom I met that I was doing a wrong thing. I did not have any intention to influence the opinion of these members of Parliament nor did I have a possible expectation of exercising any such influence. I have the highest respect for the Parliament and the Public Accounts Committee. I hold the Honourable Speaker, the members of Parliament and of the Public Accounts Committee in the highest esteem and respect. It is far from my thought or intention to do anything which would even remotely savour of disrespect to Parliament or to the Public Accounts Committee and their Rules and Regulations. If, however by any chance there is any semblance or disrespect having been shown by me, I humbly request the Honourable Speaker to accept my humble and unconditional apology to him and to all the members of Parliament and of the Public Accounts Committee.

This Petition was printed by the Statesman Ltd., Statesman House, 4, Chowringhee Sq., Calcutta in their commercial printing Department’.

On the 2nd August, 1966, Shri Bhagwat Jha Azad had also mentioned that this had been published in the *Current* weekly of Bombay, Although I had not asked for any explanation of the Editor of the *Current*, he has of his own accord, sent to me the following letter dated the 5th August, 1966:—

‘I understand from our correspondent in Delhi that our weekly was mentioned in the House in connection with a privilege issue that was discussed concerning partner in the firm of Messrs. Amin Chand Pyarelal and the Public Accounts Committee.

Although we have not yet heard anything officially in this connection. I feel I should mention to you, Sir, beforehand that should we inadvertently have committed any breach of privilege of your Honourable House, we would be unhesitating in our expression of regret for any error on our part and if there is any way in which we can put this matter right we would consider it our duty to do so’.

4. The Speaker thereafter asked Shri Madhu Limaye if he wanted to say anything further on the matter, Shri Madhu Limaye replied that he wanted time to study the matter.

The Speaker, thereupon, observed that he was referring the matter to the Committee of Privileges for consideration and report.

Findings and recommendations of the Committee

5. The Committee of Privileges, after examining Sarvashri Jit Paul, J. M. Sehgal, Manager of M/s Amin Chand Pyarelal, Ram Mohan Dube, a journalist and Madhu Limaye in person, in their Twelfth Report presented to the House on the 1st December, 1966, reported *inter alia* as follows:—

- (i) “The question of privilege referred to the Committee in the present case is based on the allegation made by Shri Madhu Limaye, MP., in the House on the 2nd August, 1966 that Shri Jit Paul had circulated the pamphlet which he intended to be presented to the Lok Sabha as a petition. This was quite clearly stated by the Speaker in the House on the 2nd August, 1966.

The Committee, therefore, decided to find out

whether there was any evidence in support of the allegation that Shri Jit Paul had circulated the said pamphlet which he had intended to be presented to the Lok Sabha as a petition. With this end in view, the Committee first examined Shri Jit Paul in person on oath.

Shri Jit Paul, in his evidence before the Committee on the 4th October, 1966, denied that he had circulated any copy of the said pamphlet to any member of Parliament or to anybody else either by post or personally by himself. He, however, said that he had approached three members of Parliament, namely, Sarvashri Madhu Limaye, Gaure Murahari and Rajeshwar Patel, 'in order to seek their advice and if possible get their agreement for signing it because I was told by my solicitor that some members of Parliament has to sign these petitions'. He said that even to those members of Parliament he had given copies of the purported petition without the schedules. He also stated that what had appeared in the 'Current' dated 25th June, 1966, was different from the said pamphlet which had been drafted by his solicitors much later in the middle or the third week of July and was printed about the end of July. He added that 10,000 copies of the said pamphlet had been printed and except one or two copies, the balance was lying."

(iii) "The Committee then examined on oath Shri J.M. Sehgal, Manager, M/s. Amin Chand Pyarelal, New Delhi, and Shri Ram Mohan Dube, a journalist who had accompanied Shri Jit Paul to Shri Madhu Limaye, M.P., Shri Sehgal deposed that when they went to see Shri Madhu Limaye, M.P., they had only one copy of the pamphlet with them which was given to Shri Madhu Limaye, M.P., only when he said that it might be left with him so that he could study it before discussing the matter with them. Shri Sehgal further said that they had not circulated copies of the pamphlet either personally or by post.

Shri Ram Mohan Dube, however, deposed that they had two copies of the said pamphlet when they went to see Shri Madhu Limaye, M.P. He added that a copy was left with Shri Madhu Limaye, when he asked for it for studying it and thereafter fixing up some other time for discussion. According to him, another copy was left with Shri Gaure Murahari, M.P., also for

the same purpose. He said that they had not gone to any other member of Parliament thereafter on that day."

(iv) "The Committee, thereafter, examined Shri Madhu Limaye, M.P., to find out whether he had any evidence in support of his allegation that Shri Jit Paul had circulated copies of the said pamphlet which he had intended to be presented to Lok Sabha. Shri Madhu Limaye said that Shri Jit Paul had left a copy of the printed pamphlet with him on his own and that there was no question of entering into any discussions with him or asking him to give him any paper or Shri Jit Paul's asking him to sponsor his petition. He, however, said that he had no knowledge whether the pamphlet had been circulated to others, except that Shri Rajeshwar Patel, M.P., had told him that he had been given a copy of the petition. He added that it was a presumption and an inference that the pamphlet had been circulated as he was given to understand by some dignitary of the Public Accounts Committee that 3,000 copies of the *Current* dated the 25th June, 1966 had been purchased by Shri Jit Paul."

(v) "After careful consideration of the evidence placed before the Committee, the Committee have come to the conclusion that there is no evidence in support of the allegation made by Shri Madhu Limaye, M.P., in the House that the purported petition had been published and circulated by Shri Jit Paul except to the three Members of Parliament whom, as he stated, he had approached in connection with the presentation of the purported petition to Parliament."

(vi) "The Committee, however, consider that the circumstances of the case are very suspicious, particularly in view of the fact that the name of printing press is not published on the pamphlet in question; but in the absence of any proof of actual distribution and also in view of the apology tendered by Shri Jit Paul, no further action need be taken in the matter."

(vii) "The Committee recommended that no further action be taken by the House in the matter."

Action taken by the House

6. No further action was taken by the House in the matter.

PREMATURE PUBLICATION

388
LOK SABHA
(1951)

Point of privilege

Publication of the report of a Committee appointed by Government before presentation to the House

Facts of the Case and ruling by the Speaker

On the 2nd April, 1951, Shri H.V. Kamath, a member, sought to raise a question of privilege regarding the action of Government in releasing to the Press the findings and conclusions of the Ganganath Committee appointed by the Minister of Food and Agriculture to enquire into the allegations regarding the import of sugar, in pursuance of the assurance given by the Prime Minister during the parliamentary debate on the food situation on the 17th November, 1950. He contended that the release of the report to the Press, before it was laid on the Table of the House, constituted a breach of privilege of the House.

2. The Deputy Speaker (Shri M.A. Ayyangar) reserved his ruling.

3. On the 5th April, 1951, the Deputy Speaker observed as follows:—

"....I may inform the hon. member that this was not a Committee appointed by the House and it had no obligation therefore to submit its report to the House. It is open to Government to appoint any number of Committees, whether on a statement made in this House or otherwise. But that will not mean that the Committee is appointed by this House. Therefore, I do not find that there is any breach of privilege involved in this matter. No doubt, if any Committee is appointed by Government in pursuance of any resolution or otherwise and not independently, while the House is sitting, naturally the House would expect that such committee's proceedings should be disclosed to itself first. Subject to this observation, there is absolutely no breach of privilege in the present case.

I hope Government will bear this in mind. In this instance, it is not as if there is any question of privilege, but it is a matter of etiquette to be shown to the House."

389
LOK SABHA
(1952)

Point of privilege

Alleged disclosure of proceedings of a Parliamentary Committee

For details of the case please see summary No. 113 at pp. 220-21 ante.

390
LOK SABHA
(1952)

Point of privilege

Publication by a newspaper of an adjournment motion before it was mentioned in the House

Facts of the Case and ruling by the Speaker

On the 10th December, 1952, Shrimati Sucheta Kripalani, a member, raising a question of privilege said that the *Delhi Express* of that date had published a news item regarding an adjournment motion of which she and some other members had given notice on the previous day. She added that the newspaper, by giving publicity to the matter before the House was seized of it, had committed a breach of privilege and requested that the matter might be referred to the Committee of Privileges. She also referred to the following ruling given by the Speaker (Shri G.V. Mavalankar) on the 6th February, 1948, when a short notice question due to be answered in the House had found publicity in the Press on the previous day:

"I have to invite the attention of the House to an important breach of the conventions of the House in the fact that I found that this question got publicity in the press yesterday I might just invite the attention of Honourable members to the desirability and the necessity also of no question or motion finding publicity in the press before not only these are admitted but, so far as questions are concerned, before they are answered in the House. It is fair both to the House as also to the Government that the question and answer should go to the public together. I only wanted to invite the attention of the House, and also of the Press, to this fact."

2. The Deputy Speaker (Shri M.A. Ayyangar), who was in the Chair, said that he would in the first instance, call for an explanation of the newspaper.

3. On the 12th December, 1952 the Deputy Speaker informed the House that he had received the following letter of apology from the Managing Editor of the *Delhi Express*:

"This is to express my regret at the publication in our columns this morning of a report of an intended adjournment motion.

This was done inadvertently, in ignorance of the convention governing such matters.

In offering my apology for a breach of the conventions of the House may I assure you, Sir, that every precaution will be taken to ensure that such mistakes do not recur."

The Deputy Speaker added that in view of the apology, he proposed to treat the matter as closed.

391

LOK SABHA
(1955)

Point of privilege

Alleged expression of views by Finance Minister regarding taxation proposals for Second Five Year Plan outside the House.

Facts of the Case and ruling by the Speaker

On the 5th September, 1955, Shri H.V. Kamath, a member, drew the attention of the House to the reports appearing in the newspapers, that the Finance Minister had informed the All India Congress Committee of taxation proposals with regard to the Second Five Year Plan. Shri Kamath contended that it was a breach of privilege of the House to disclose these proposals to the A.I.C.C. before they were communicated to the House.

2. The Speaker (Shri G.V. Mavalankar) observed as follows:

"The Second Five Year Plan is open for discussion to the public. Papers are writing about it, and opinions are being expressed by different people. Simply because a person connected with the Five Year Plan happens to be the Finance Minister, I do not know why he should be debarred from expressing his opinions. He did not express I am sure the decision of Government on that point he only expressed his views."

392

LOK SABHA
(1957)

Point of privilege

Premature Publication by Press Information Bureau of an Answer to a Question.

Facts of the Case and ruling by the Speaker

On the 26th July, 1957, before the Lok Sabha took up Questions, Shrimati Renu Chakravartty, a member, raised a question of privilege arising out of the publication by the Press Information Bureau of an Answer to a Question before it was given on the Floor of the House.

2. Shrimati Renu Chakravartty stated that an Unstarred Question No. 182 on Dandakaranya Rehabilitation Scheme, originally put down for answer on the 23rd July, 1957, was transferred to the List of Questions for Oral Answers for the 31st July, 1957; and the members were informed of the postponement by a corrigenda on the 20th July, 1957. However, a Press Note issued by the Press Information Bureau on the 23rd July, 1957, contained the information purported to have been given in response to Unstarred Question No. 182. This, the member contended, constituted a contempt of the House.

3. The Speaker observed that the member might send a formal notice in writing when he would enquire into the matter.

4. On the 27th July, 1957 the Speaker made a reference to the above matter in the House and informed the House that a written apology had been received from the Principal Information Officer (Shri T.R.V. Chari), of the Press Information Bureau. The letter of apology read as under:—

"I should be grateful if the following submission may kindly be placed before the Speaker:

On the 23rd July, a press release of an answer to Unstarred Question No. 182 which had been printed on the Order Paper for 23rd July, had been made by the Press Information Bureau on the basis of material received from the Ministry of Rehabilitation that morning.

It is with great distress that we have learnt of the fact that the subsequent change of the unstarred question from the printed list for 23rd July to 31st July had escaped the notice of the officer responsible for the release. The circumstances under which the copies containing the Minister's

answer for the 23rd July were received in the Press Information Bureau on the morning of that day, had unfortunately not suggested the possibility of any change in the order of questions.

It is learnt that the Ministry of Rehabilitation are also taking steps to make amends for the omission to warn the Press Information Bureau about the change in the date of answer. Nevertheless, the responsibility of the Press Information Bureau cannot be minimised.

A close check is kept during question hour in regard to questions both for variation, if any, in the oral answer and whether or not the question has been reached. It is extremely regretted that equal care in regard to last minute variations in the printed list for unstarred questions was not taken in this case. Orders have, therefore, been issued to Officers handling Parliamentary questions to handle both starred and unstarred questions with equal vigilance. With great contribution the Press Information Bureau would beg to assure you, Sir, that there will be no repetition of such a lapse in the future."

5. The Speaker then observed:

"In view of this, I am sure the House would not expect me to proceed in this matter further but accept what has been stated; and I am sure a responsible officer, as he gives an assurance, will not commit similar mistakes in future.

The matter is dropped at this stage."

393

LOK SABHA

(1958)

Point of privilege

Premature disclosure of the proceedings of and casting reflections on the Joint Committee on a Bill

For details of the case please see summary No. 114 at pp. 221—224 ante.

394

LOK SABHA

(1960)

Point of privilege

Publication in the Press of a news item concerning the contents of the Chinese Government's reply to the Government of India's note, before the House was informed of it.

Facts of the case and ruling by the Speaker

On the 8th April, 1960, Shri A. B. Vajpayee, a member, drew the attention of the House to the publication in the Press of a news item concerning the contents of the reported reply of the Chinese Government to the Government of India's note of the 12th February, 1960, before the House was informed of it. He contended that the publication of that news was an impropriety, if not a technical breach of privilege.

2. The Prime Minister (Shri Jawaharlal Nehru) stated *inter alia* as follows:—

"I should like to be clear on this subject of what is sometimes referred to as a privilege of this House. I am not aware of any such privilege that I should control the press as to what they should print or not print when they get it.... I think it is a novel proposition of which I have not been aware in any country...I want to be clear on this matter which is referred to again and again, to my knowledge, without any justification in parliamentary practice in any country. In fact it would become almost impossible for Parliament to function if I am supposed to tell them of all military moves, all diplomatic moves from day to day. That is not parliamentary government, so far as I know. But that is by the way.

We have been trying to keep the House fully informed of these developments. Sometimes, it so happens that newspapers get some information and they publish it—not because we give it to them. We do not want to encourage publication in newspapers before we have decided that it should be published. A reply has come from the Chinese Government and we were waiting to find out the exact date of publication by them and by us and then I shall place it before the House.... I do not think that it leaked out. The newspaper concerned has correspondents abroad too and those correspondents get it from other sources also.

Obviously, it is a matter not of privilege but pure courtesy even that it should be placed before the House before it is sent to the Press. But sometimes it so happens—apart from the papers—that we have Press Conferences and there are questions and answers. Something is said and an answer has to be given. That is not a matter of discourtesy to anybody that an answer is given. Can it be said that every

answer should be given here before it is given in the Press Conference?"

3. The Speaker (Shri M. A. Ayyangar) observed *inter alia* as follows:—

"With respect to these matters, I would like the hon. members to know what exactly I am going to allow and not to allow. It is for the hon. Minister to find out and to decide for himself, whether a particular document ought to be placed on the Table of the House or not. If he makes up his mind that it ought to be placed here, the hon. members expect that this House must be the first to get information before it is given to the Press. But it is for the hon. Minister to decide whether it is a matter which is so important that the information ought to be given first to the House, or whether it is not of such importance and might be given out to the Press."

395

LOK SABHA

(1962)

Point of privilege

Publication of terms of an agreement between the Government and an oil company in a newspaper, which the Minister had refused to disclose to House on grounds of public interest.

Facts of the Case and ruling by the Speaker

On the 26th March, 1962, Shri Hem Barua, a member, sought to raise a question of privilege that the Minister of Mines and Oil (Shri K. D. Malaviya) had, by refusing to disclose to the House the terms of the oil agreement between the Government and E.N.I. of Italy on the plea of public interest when those terms had been published in the *Statesman* of that day, committed a breach of privilege.

2. Shri K. D. Malaviya said that as he had returned to Delhi that morning, he was not in a position to say anything final in the matter. He said that he would make a statement on the subject on the next day. The matter was accordingly deferred till the next day.

3. On the 27th March, 1962, Shri K.D. Malaviya stated *inter alia* that Government had not given any information to the Press and nor was it likely that the other party would have done so. He added that most of the information contained in the newspaper report was based on information he had already given to the House on various occasions. He, however, did not

wish to make any comments on the points not disclosed by him to the House and published by the newspaper as negotiations between the Government and certain parties were still going on.

4. The Speaker (Shri M. A. Ayyangar), disallowing the question of privilege, observed *inter alia* as follows:

"So far as the privilege motion of Shri Hem Barua is concerned, it is that the hon. Minister withheld information from the House and gave it to the Press. If he had done so, it would have been improper. It has been repeatedly held in this House that hon. Ministers should take the House into confidence and it is through the House, when the House is in session, that information of this kind should come out, and that is the practice which we have been following, irrespective of whether it is a matter of privilege or not. Otherwise, if the Ministers themselves pay little regard to this House no other person will pay regard to this House. Therefore, it might be at least an act of impropriety. But, in this case, the Minister does not say that he gave information to the newspaper, nor is it alleged. The newspaper has somehow got this information which the Minister is not prepared to confirm or deny. I can only condemn the correspondent for having come out with this news item. Even if it be true, he is not helping the country by publishing it, when the Minister thinks that in the public interest it ought not to be placed before this House.

....I would urge upon all newspapers not to allow such things to be published. They will take note of whatever is happening here and if, the interest of the public, it is considered either by the House or by me that an agreement which is made ought to be kept secret, they would also adopt that secrecy in the interest of the country and of proper journalism.

....I do not want to take it up as a matter of privilege because we are sitting only for two or three days more and there will be a new Parliament when automatically it will lapse; otherwise. I would have certainly referred it to the Privileges Committee to find out whether it has not exceeded its right of reporting."

396
LOK SABHA
(1963)

Point of privilege

Publication of a notice of question in a newspaper before it was admitted or answered in the House.

Facts of the case and ruling by the Speaker

On the 10th September, 1963, Shri Prakash Vir Shastri, a member, complained that the *Blitz*, in its issue dated the 7th September, 1963, had reported that Sarvashri Krishna Menon and Wasnik, members, had tabled a Short Notice Question in regard to the uncalled for searches made by C.I.D. in the residences of three Bombay film producers. Shri Shastri contended that the publicity given to the said notice of Short Notice Question before it was admitted and answered in the House constituted a breach of privilege, whether that news was given to the concerned newspaper by the members who gave notice of the question or whether it leaked through the Speaker's office.

2. The Speaker (Sardar Hukam Singh) then observed *inter alia* as follows:—

“There is no breach of privilege as such, if it so happened. This happened before and my predecessor had at that time given a ruling also. I want to repeat the very same observation. Taking first question, if notice of a question is given, then not only before it is admitted or disallowed, but also before it is answered in this House. It is not desirable that publicity to it should be given in the newspapers. No hon. member should resort to that practice. That is what has been adhered to in this House. It is a matter of propriety and desirability, and no breach of privilege has been held to be involved in this...

So far as other notices are concerned, of course, there cannot be any question of any answer, but it is desirable that they should not be leaked out or given to the press before their allowance or disallowance has been decided by the Speaker and intimation given to the members about it.

Therefore, I hope hon. members would keep to that convention and tradition. That is very wholesome and that ought to be observed.”

3. Some members, thereupon, desired that in the absence of specific rules to deal with the matter of impropriety and undesirability of giving publicity to

notices of various matters likely to come before the House, Rules Committee might go into this matter so that such undesirable incidents would not be repeated in future.

4. The Speaker then observed that he would refer the matter to the Rules Committee to find out whether there ought to be some definite rule on that for the future.

397
LOK SABHA
(1966)

Point of privilege

Disclosure of substance of Government's comments on recommendations of Public Accounts Committee by a Minister before they were considered by that Committee.

For details of the case please see summary No. 115 at pp. 224—26 *ante*.

398
LOK SABHA
(1968)

Point of privilege

Circulation to Press by a member of a summary of his speech before delivering it in the House.

Facts of the case and action taken by the House

On the 26th March, 1968, the Deputy Speaker (Shri R. K. Khadilkar), who was in the Chair, informed the House that Shri Amrit Nahata had given notice of a question of privilege against Shri N. K. Somani, another member, on the ground that Shri N. K. Somani had circulated to the Press cyclostyled copies of a summary of his speech before he had delivered it in the House on the 22nd March, 1968 while raising the half-an-hour discussion regarding the Bharat Sewak Samaj. The Deputy Speaker added that Shri Amrit Nahata had raised the point on the 22nd March, 1968 also when Shri N. K. Somani had got up to speak, but Shri Somani had then denied the allegation.

The Deputy Speaker observed that no breach of privilege was involved in the matter. Shri N. K. Somani had, however, written a letter explaining his position. The Deputy Speaker observed that he would ask Shri Somani to make a personal statement in the House.

2. Shri N. K. Somani made the following personal explanation:—

“Sir, when I rose to open the debate on the Bharat Sewak Samaj on Friday afternoon, one hon. member brought to my notice and to the Chair that the text of my speech had already been distributed in advance of the time. I had enquired into the matter and I now see that this was done without any responsibility on my part. First of all, it was not the text of my speech. It was a brief 20 lines precis which was circulated inadvertently by a junior clerk in our office. I have already written to you communicating both orally as well as in writing. This vicarious responsibility lies on my office and I have already apologised to you. In view of all this, I appeal to the cumulative wisdom of the House, and to you, Sir, to see what needs to be done about this.”

3. The matter was then closed.

399

LOK SABHA

(1973)

Point of privilege

Publication of a Bill as an Act of Parliament before it was passed by the House

Facts of the case and reference to the Committee of Privileges

On the 28th August, 1973, Shri R. R. Sharma, a member, raised a question of privilege against the Hind Publishing House, Allahabad, relating to its publication entitled “The New Code of Criminal Procedure, 1973”. While raising the question of privilege, Shri R.R. Sharma stated *inter alia* as follows:—

“The Code of Criminal Procedure (Amendment) Bill is still under consideration in Lok Sabha but a publisher of Allahabad, namely ‘Hind Publishing House.’ has published this Bill as an Act.....

Sir, the said publisher has very cleverly written therein ‘As passed by Rajya Sabha’. He has termed it as an Act instead of a Bill and has written in bold letters that this booklet contains comparative tables. It has been sold in the whole of U.P. My submission is that this question may be referred to the Committee of Privileges.”

2. The Speaker (Dr. G. S. Dhillon), while referring the matter to the Committee of Privileges observed *inter alia* as follows:—

“....I have seen this. The Code of Criminal Procedure, 1973, is not yet out of Parliament, nor has it received the President’s assent. And these people publish it in the form of regular enactment called ‘Code of Criminal Procedure 1973’ containing comparative tables relating to the sections of the old and the new Codes.... In a small bracket they write, ‘As passed by Rajya Sabha’.... Till the last stage people have got the right to give you their suggestions, their opinions and advice and all that. If this goes out then the people will be under the impression that it is already passed. So, I am sending it to the Privileges Committee.”

Findings and recommendations of the Committee

3. The Committee of Privileges after examining Shri Nurul Abdin, the Proprietor of the Hind Publishing House, Allahabad in their Thirteenth Report, presented to the House on the 18th December, 1974, reported *inter alia* as follows:—

- (i) “After careful consideration of the facts of the case and the evidence before the Committee, the Committee is of the view that the publication entitled ‘The New Code of Criminal Procedure, 1973’, brought out by Shri Nurul Abdin, Proprietor of the Hind Publishing House, Allahabad, while the Code of Criminal Procedure Bill, 1972 was still under consideration of Lok Sabha, sought to create a misleading impression on the public mind that the aforesaid publication was the Code of Criminal Procedure as finally passed by Parliament and enacted with a view to make monetary gains by the sale of its copies. This amounted to misrepresentation of the proceedings and action of the House and therefore constituted a breach of privilege and contempt of the House.”
- (ii) “However, in view of the unconditional and unqualified apology tendered to the Committee by Shri Nurul Abdin, the Committee feel that no action need be taken by the House in the matter.”
- (iii) “Since, however, the action of the Hind Publishing House, Allahabad in bringing out a publication of this kind also involves the

offences of cheating the public and an infringement of the Copyright, 1957, the Committee would like the Government to examine the feasibility of initiating necessary legal proceedings against the publishers for those offences. During the consideration of this matter by the Committee, it was brought to the notice of the Committee that similar publications had been brought out by two other publishers also, namely, (i) the Panchayat Publications, Near High Court Buildings, Hyderabad-500002-(A.P.); and (ii) Arjun D. Kukreja—for Criminal Appeals Reporter Office, 392, W.K. Road, Meerut (U.P.). The Committee would like the Government to take similar action in respect of these two publishers also as is suggested in respect of the Hind Publishing House, Allahabad....”

- (iv) “The Committee recommend that no further action be taken by the House in the matter and it may be dropped so far as breach of privilege or contempt of the House is concerned.”
- (v) “As regards the question of initiating legal proceedings against the Publishers of ‘The New Code of Criminal Procedure, 1973’ and similar other publications for offences of cheating and infringement of the Copyright Act, 1957, the Government may examine the matter separately.”

Action taken by the House

4. No further action was taken by the House in the matter.

400

LOK SABHA

(1975)

Point of privilege

Premature publicity of notice of a motion of no-confidence against Speaker by a news agency and a newspaper

Facts of the case and ruling by the Speaker

On the 14th March, 1975, Shri H.K.L. Bhagat, a member, sought to raise a question of privilege against the Indian Express and the United News of India, a News Agency, for giving premature publicity to notice of a motion of no-confidence against the Speaker, Lok Sabha, tabled by Shri Madhu Limaye, another member in its issue dated the 14th March,

1975 under the heading “No-confidence move against the Speaker”, before the said motion had been admitted by the Speaker and circulated to members.

2. Thereupon, the Speaker, (Dr. G.S. Dhillon) observed *inter alia* as follows:—

“I have seen this privilege motion. The news has appeared in various newspapers. The no-confidence motion is against the Speaker.... I must say that the procedure we follow is:

‘Rule 334A. A notice shall not be given publicity by any member or other person until it has been admitted by the Speaker and circulated to members:

Provided that a notice of a question shall not be given any publicity until the day on which the question is answered in the House.’

In this particular rule which I have quoted the procedure has been specifically laid down. In the case of all other motions when the Speaker admits a motion of course, the procedure is already there but in this case the motion comes to the House for admission on or after the 14th day. It is just given and the House gives the leave then the Speaker admits it and till now that procedure has not been over yet. I had fixed a date. It came to me on the 3rd March and I think that date falls on the 18th—to be on the safe side one day more. This motion has not yet come. I have been very often eulogizing the Press as part of Parliament and as if they have equal responsibility and they feel always happy when I make such observations. If they feel they are a part of the Parliament then they are expected to know the rules of procedure also. This is not such a light subject. If you allow this practice any gentleman may come, give a motion and then go out to the press. With all these campaigns against the Speaker it is very difficult for the Chair to function.

Procedure should be followed correctly and in spirit. I respect the Constitution. I respect the rules. But, I also expect that the liberty should not be converted into a licence. As far as the privilege is concerned, I will have to go into the various aspects.”

3. On the 17th March, 1975 the Speaker informed

the House that the Editor of the United News of India in his letter dated the 17th March, 1975, had stated as follows:—

"This is with reference to last week's Lok Sabha proceedings relating to the no-confidence move against the hon'ble Speaker. The discussion arose from pre-mature publicity given to the details of the no-confidence move as contained in the notice of the motion. I apologise unreservedly for the release of the details to which objection has been taken. This happened as a result of an unfortunate oversight. In view of this apology, I hope, you will kindly treat this matter as closed. We will be more careful in future."

4. In view of the unconditional apology tendered by the Editor of the United News of India, the matter was treated as closed.

401
LOK SABHA
(1978)

Point of privilege

Advance publicity in the Press to notices given by members for raising matters in the House

Facts of the case and ruling by the Speaker

On 30th August, 1978, Shri Vayalar Ravi, a member, gave notice of a question of privilege against Shri Madhu Limaye another member the Editor, Printer and Publisher of the *Hindustan Times* and the correspondent of U.N.I. for giving advance publicity to a notice by Shri Madhu Limaye about his intention to oppose a Bill in the House.

2. On 31st August, 1978, the Deputy Speaker (Shri Godey Murahari) made the following announcement in the House:—

"It has been brought to my notice that advance publicity is being given in the Press to various notices given by members for raising matters in the House.

I may inform the members that giving of advance publicity to notices for raising matters in the House is in contravention of the provisions of Rule 334A of the Rules of Procedure and Conduct of Business in Lok Sabha, which reads as follows:

'A notice shall not be given publicity by any member or other person until it has been admitted by the Speaker and circulated to members:

Provided that a notice of a question shall not be given any publicity until the day on which the question is answered in the House.'

I seek cooperation of members and the Press in the observance of the provisions of this Rule."

3. The matter was, thereafter, closed.

402
LOK SABHA
(1987)

Point of privilege

Giving advance publicity to a notice by the Press

Facts of the case and ruling by the Deputy Speaker

On 15th April, 1987, the Deputy Speaker (Shri Thambi Durai) observed *inter alia* as follows:

"The House will now take up Item No. 8, i.e., motion for leave to move the resolution regarding removal of the Speaker given notice of by Shri Somnath Chatterjee and 14 other members on 30th March, 1987. The notice was extensively reported in the news-papers of 31st March, 1987. The same day, i.e., on 31st March, 1987 three members, viz., Sarvashri Ram Singh Yadav, Pratap Bhanu Sharma and Shanta Ram Naik, gave notices of question of breach of privilege under rule 222 against the *Times of India*, *Hindustan Times*, *Indian Express* and *The Statesman* for giving advance publicity to the notice of motion for removal of Speaker in their issues of that date. The matter was sought to be raised by the members in the House on the 31st March itself and again on 1st April, 1987.

Even before the notice of a resolution for removal of the Speaker was received by the Secretary-General, as required under Rule 200 of the Rules of Procedure, it was widely and repeatedly mentioned in the press that such a notice was being given. After the notice was given on 30th March, 1987, a member stated on the floor of the House, 'I take the responsibility of saying that I have given this information (to the press)'.

To take the privilege issue first, I have looked into the matter in depth. I may inform the House that giving of advance publicity to notices for raising matters in the House is in

contravention of the Rules of Procedure and Conduct of Business in Lok Sabha. Rule 334A reads as follows:—

'A notice shall not be given publicly by any member or other person until it has been admitted by the Speaker and circulated to members.'

The Rule is thus quite clear and what has been done is a violation of the Rule. Successive Speakers have ruled that it is a breach of propriety to give advance publicity to notices which are yet to come up before Parliament for consideration.

In a similar case in 1975, premature publicity was given to a notice of motion for removal of the Speaker by a newspaper. When a member sought to raise the matter in the House, the Speaker observed, *inter alia* as follows:—

'Procedure should be followed correctly and in spirit. I respect the Constitution. I respect the rules. But I also expect that the liberty should not be converted into a licence.'

In view of the unconditional apology tendered by the Editor of the *United News of India*, the matter was treated as closed.

In view of the wide publicity that has been given in the instant case, I deem it my duty to remind the members that the rules and well established conventions of this House apply to all sides of the House equally. They bind not only the Presiding Officers themselves but also every member on every side of the House. Neither the members of the ruling party can violate them with impunity simply because they are in majority, nor can the opposition members flout them because they are in the opposition. I, therefore, hold that the extensive and repeated publicity given to the notice for removal of Speaker not only after it was received by the Secretary-General but even before that, was most unfortunate and deplorable. Matters concerning day to day functioning of the House are best settled through well settled parliamentary channels rather than through the columns of the press. I would, therefore, urge upon all sections of this House to co-operate with the Chair in the observance of the rules and well established conventions of this House. I would also urge upon the press to refrain from giving publicity to notices in clear contravention of the rules.

So far as the question of breach of privilege is concerned, according to well established

parliamentary practice, usage and convention, it is improper, although not technically a breach of privilege or contempt of the House, to give, for any reason premature publicity in the press to notices of motions, etc. Breaches of rules, conventions and practices are not regarded as breaches of privilege. Breaches of rules and propriety may invite the censure of the House on a proper motion or displeasure of the Speaker but cannot be allowed to be raised as breaches of privilege or contempt of the House. Therefore, Sarvashri Ravi Singh Yadav, Pratap Bhanu Sharma and Shantaram Naik do not have my consent to raise the matter as one of privilege..."

403
RAJYA SABHA
(1970)

Point of privilege

Circulation of copies of Finance Bill before its introduction in Lok Sabha

Facts of the case and ruling by the Chairman

On the 2nd March, 1970, Shri Godey Murahari, a member stated on a point of order that the Finance Bill was introduced at a sitting of Lok Sabha at 10.00 P.M. on the 28th February, 1970, but copies of it had been circulated to all the members of both Houses and others earlier that day. He contended that the Budget proposals were thus leaked out before the Finance Bill was actually introduced in Lok Sabha.

2. The Chairman (Shri G.S. Pathak) observed that he would ascertain the facts from the Government and then give his ruling.

3. On the 12th March, 1970, the Chairman observed as follows:—

"Under Article 112 of the Constitution a statement of the Estimated Receipts and Expenditure of the Government of India in respect of every financial year has to be laid before both Houses of Parliament. Pursuant to this provision a statement of the Estimated Receipts and Expenditure of the Government of India 1970-71 was laid on the Table of the Rajya Sabha on February 23. This statement does not include the Finance Bill which is not laid on the Table of the Rajya Sabha at this stage. The Finance Bill is introduced in the Lok Sabha and will be formally laid on the Table of the Rajya Sabha only after it is passed by that House. No question of leakage of the Budget is involved as the taxation proposals contained in

the Budget has been known to the members of the Lok Sabha during the Budget Speech and the Budget Papers were distributed after that Speech.

Copies of the Finance Bill, however, form part of the Budget Papers, circulated to the members. The Rajya Sabha members got their Budget Papers distributed at their residences on the night of February 28. We in the Rajya Sabha are not concerned with the question of circulation of the Finance Bill before its formal introduction in the Lok Sabha. This is a matter for the Lok Sabha. The facts and circumstances relating to this, it appears, were explained to the Lok Sabha at its special sitting on February 28, when the Bill was formally introduced in that House.

The matter should, therefore, end there."

404
RAJYA SABHA
(1980)

Point of privilege

Describing of Finance (No. 2) Bill, 1980 as Finance (No. 2) Act, 1980 in a book by a publisher before the said Bill had been passed by Parliament

For details of the case please see summary No. 330 at pp. 479-84 ante.

405
RAJYA SABHA
(1991)

Point of Privilege

- (i) Alleged assault on a member by the police, and
- (ii) Alleged premature publication of the proceedings of the Committee by some newspapers.

For details of the case please see summary No. 67 at pp. 125-26

PRESIDENT'S ADDRESS

406

LOK SABHA
(1963)

Point of privilege

Interruption and walk out by certain members during the President's Address.

For details of the case please see summary No. 214 at pp. 350—54 ante.

407

LOK SABHA
(1968)

Point of privilege

Disorderly conduct by members at the time of President's Address to both Houses of Parliament assembled together.

For details of the case please see summary No. 218 at pp. 356—60 ante.

408

LOK SABHA
(1971)

Point of privilege

Interruption and walk-out by a member during President's Address

For details of the case please see summary No. 219 at pp. 360—62 ante.

409

LOK SABHA
(1971)

Point of privilege

Guidelines for maintenance of order, dignity and decorum on the occasion of the President's Address to members of Parliament under articles 86 and 87 of the Constitution

Facts of the case and reference to the Committee

On the 2nd April, 1971, the following motion was adopted by Lok Sabha:—

"That this House is deeply concerned at the

conduct of Shri Ram Deo Singh who is alleged to have created obstruction and showed disrespect to the President on the solemn occasion of his Address to both the Houses of Parliament assembled together under Article 87 of the Constitution on the 23rd March, 1971 and therefore, resolves that a Committee consisting of 15 members of the House be constituted by the Hon'ble Speaker to go into the matter in all details and to suggest suitable action and also guidelines for the future by the first week of the next session".

2. The First Report of the Committee regarding the conduct of Shri Ram Deo Singh, M.P., during the President's Address to both Houses of Parliament assembled together on the 23rd March, 1971, was presented to Lok Sabha on the 15th November, 1971.

3. The Second Report of the Committee on the guidelines for maintenance of order, dignity and decorum on the occasion of the President's Address to members of Parliament under articles 86 and 87 of the Constitution, was presented to the Lok Sabha on the 14th April, 1972.

Findings and recommendations of the Committee

4. The Committee called for the opinion of the Ministry of Law and Justice (Department of Legal Affairs) on the legal and constitutional aspects of the matter. The Committee also invited the Secretary of the Department of Legal Affairs and heard his views in the matter. The Committee also heard the views of the Minister of Law and Justice.

5. The Committee appointed a Sub-Committee consisting of four members to consider whether any amendment of the Constitution was necessary to provide for the maintenance of order, dignity and decorum on the occasion of the President's Address to members of Parliament.

6. The Committee in their Second Report, reported¹ *inter alia* as follows:—

"(i) The Committee are of the view that there is a lacuna in the constitutional provisions relating to the President's Address to the House(s) of Parliament under Article 86 or Article 87 of the Constitution inas-

¹Two members of the Committee did not agree with the report of the Committee and appended to the report their separate notes.

much as there is no specific provision designating the person who is to preside on that occasion and maintain order, dignity and decorum at such a formal and solemn occasion.

- (ii) The Committee have noted with concern that there have been an increasing number of incidents in recent years, both in Parliament as well as in State Legislatures, where during the Address of the President/Governor to the House(s) of Parliament/State Legislatures, members created disturbances by interrupting the President/Governor, staging walk-outs or by other forms of misconduct. The Committee are of the opinion that effective measures must be taken to check and prevent recurrence of such incidents in the future in Parliament/State Legislatures.
- (iii) The Committee have been greatly distressed by the recent incident in Parliament which occurred on the 13th March, 1972 when a certain group of members created disturbance by continuously interrupting the President during his entire Address and then staging a walk-out. This incident was also referred to the Committee by the Speaker in Lok Sabha on the 17th March, 1972, for consideration. That groups of members should misconduct themselves and create disturbance during the President's Address should cause grave concern to all those who cherish the dignity of the institution of Parliament.

The Committee cannot but express their strong disapproval of the incident and deplore the action of all those members who misconducted themselves and created disturbance during the President's Address to both Houses of Parliament assembled together on the 13th March, 1972.

- (iv) The Committee feel that this particular incident underlines the need to take effective measures for preventing the recurrence of such incidents in future, as, in their view, such incidents tend to undermine the dignity and authority of the institution of Parliament itself by lowering the Parliament and its members in the eyes of the public.

- (v) The Committee feel that it is the duty of all political parties and others, both inside and outside Parliament to create a strong public opinion which alone can effectively check such incidents.

At the same time, the Committee consider that the constitutional lacuna in this regard must also be removed by making a specific provision in the Constitution for the maintenance of order, dignity and decorum during the President's Address to House(s) of Parliament under Article 86 or Article 87 of the Constitution. A similar provision should also be made in the Constitution in respect of the Governor's Address to a State Legislature under Article 175 or Article 176 of the Constitution.

- (vi) The Committee, after considering all aspects of the matter, agree with the conclusions arrived at by the sub-Committee that the Constitution should be suitably amended so as to expressly provide that the President shall preside on the occasion of his Address to the House(s) of Parliament under Article 86 or Article 87 of the Constitution, and also to provide that he shall be empowered to make rules, after consultation with the Chairman, Rajya Sabha, and the Speaker, Lok Sabha, for the maintenance of order, dignity and decorum on the occasion of his Address.
- (vii) The Committee have also formulated the following guidelines for the conduct of members and maintenance of order, dignity and decorum on the occasion of the President's Address to the House(s) of Parliament under Article 86 or Article 87 of the Constitution:—

- (1) When the President addresses either House of Parliament or both Houses of Parliament assembled together under Article 86 or Article 87 of the Constitution, he delivers his Address in his capacity as the Head of the State and as part of Parliament and in pursuance of his constitutional duty. It is as much a constitutional obligation on the part of the members to listen to the President's Address with solemnity, dignity and decorum as it is on the part of the President to address

members of Parliament. Therefore, observance of solemnity, dignity and decorum by each and every member or any other person present on the occasion of the President's Address is of utmost importance.

- (2) Any action on the part of a member or any other person which mars in any form or manner the dignity or solemnity of the occasion of the President's Address or creates disturbance shall be tantamount to an act of discourtesy and disrespect to the President as well as contempt of the House.
- (3) When members of either House or of both Houses assemble under Article 86 or Article 87 of the Constitution, they do so for the specific and only purpose of listening to the President's Address. This occasion is neither a sitting of either House nor a joint sitting of the two Houses. No business or proceedings other than the President's Address is permissible under either of these two Articles. Therefore, any interruption, point of order, speech, demonstration or walk-out etc., by any member or other person on that occasion, is contrary to the provisions of the Constitution.
- (4) No member shall, therefore, interrupt or obstruct the President's Address by any point of order, debate, discussion or in any other manner or otherwise mars the dignity of the occasion by walk out or by any disorderly conduct or in any other manner, either before or during or after the Address, while the President is in the Hall.
- (5) The President is in-charge of the proceedings and fully competent to preserve order on the occasion of his Address. If any member or other person interrupts or obstructs the President's Address or mars the dignity of the occasion in any other manner, the President may give such directions as he may consider necessary to preserve order, solemnity and dignity of the occasion.

- (6) If any member or other person interrupts or obstructs the President's Address to either House of Parliament or both Houses of Parliament assembled together, either before or during or after the Address, while the President is in the Hall, with any speech or point of order or walk-out or in any other manner, such interruption/obstruction or show of disrespect may be considered as a grossly disorderly conduct on the part of the concerned member or other person and contempt of the House which may be dealt with by the House subsequently on a motion moved by a member.

- (viii) The Committee recommend that a new Article 87A may be inserted in the Constitution so as to expressly provide that the President shall preside on the occasion of his Address to the House(s) of Parliament under Article 86 or Article 87 of the Constitution. An amendment may also be made to Article 118 of the Constitution to provide that the President, after consultation with the Chairman, Rajya Sabha, and the Speaker, Lok Sabha, may make rules as to the procedure for maintenance of order dignity and decorum on the occasion of the President's Address. The Committee also recommend that similar constitutional provisions may be made in respect of the Governor's Address to a State Legislature under Article 175 or Article 176 of the Constitution.
- (ix) The Committee recommend that the guidelines for the conduct of members and maintenance of order, dignity and decorum on the occasion of the President's Address to House(s) of Parliament under Article 86 or Article 87 of the Constitution suggested by the Committee in para (vii) above may be adopted by the House."

Action taken by the House

7. The Report of the Committee has not so far been considered by the House.

PROCEEDINGS OF HOUSE

410

LOK SABHA
(1959)

Point of privilege

Private member's Bill seeking to include members' letters to Ministers within the meaning of the term "Proceedings in Parliament" rejected by Lok Sabha

For details of the case please see summary No. 208 at p. 344 ante.

411

LOK SABHA
(1972)

Point of privilege

Publication of news-items based on proceedings of the House without making reference thereto

Facts of the case and action taken by the House

Shri N.K. Sanghi, a member, in a letter dated the 2nd April, 1972, addressed to the Speaker, Lok Sabha, complained that the *Financial Express*, Bombay, in its issue dated the 1st April, 1972, had published two news-items attributing them to the "Financial Express Bureau", although they were based on the information contained in answers to certain questions in the House. Shri Sanghi had contended that the said newspaper should have made a reference to the relevant Lok Sabha proceedings as the source of those news-items.

2. On the 11th May, 1972, the Speaker informed the House that the Editor of the *Financial Express*, Bombay, who was asked to state what he had to say in the matter, had in his reply stated *inter alia* as follows:—

"We admit that the said news-items were based on the written replies to questions raised in Parliament. Since we were not reporting the supplementaries or the discussion on the question, we did not think it necessary to bring in the forum of Parliament. On many occasions, we supplement the written replies with information collected from other sources....."

Whenever the *Financial Express* reports discussions or supplementaries to questions we make it a point to identify the source, namely, Parliament. I would like to assure you that it is

far from our intention to 'belittle the importance' of Parliament.....

The *Financial Express* has no intention of committing any breach of privilege of Parliament."

3. The Speaker also observed:—

"I would only say that it would have been better if, in this case, the newspaper had also given a reference to the relevant proceedings of Lok Sabha instead of claiming it as emanating from its own Bureau. I hope that the Press will take note of it. The matter is now closed."

412

RAJYA SABHA
(1953)

Point of privilege

Publication in newspaper of certain extracts from the uncorrected proceedings of the House

Facts of the case ruling by the Chairman

The *Statesman*, in its issue of the 1st May, 1953, published certain extracts from the 'uncorrected' verbatim proceedings of the Rajya Sabha.

2. Shri Rajagopal Naidu, a member, sent a notice of question of privilege alleging a breach of privilege of the members and officers of the House. Speaking on the motion on 1st May, 1953, he told the House that the *Statesman* had committed a breach of privilege of the House on the following three counts:—

- (i) By publication of extracts from the verbatim 'proceedings of the House' on which the words "Uncorrected—Not for publication" were clearly written.
- (ii) By using the words "Official version" regarding the news.
- (iii) By using the word "intriguing" in regard to certain remarks of Shri Biswas, the Leader of the House, and thus casting reflection upon the Leader of the House.

Thereupon, the Deputy Chairman said that the matter would be enquired into.

3. On 5th May, 1953, the Chairman intimated to the House that as a result of the enquiry, the Editor of *Statesman* had regretted the occurrence of the incident, saying that they had not been aware of the

breach of privilege involved in the action. Regarding the use of the word "intrigue", he said that it meant 'arousing curiosity or interest' according to the dictionary, and that it did not carry any other implication. The Chairman hoped that in view of the above explanation, the member might not press his motion of privilege, to which Shri Rajagopal Naidu agreed.

413

RAJYA SABHA
(1981)

Point of privilege

Refusal of permission by an Officer of a State Government to some newspapers to publish a detailed report of proceedings of the House

Facts of the case and ruling by the Chairman

On 2nd March, 1981, the Chairman (Shri M. Hidayatullah) informed the House as follows:—

"A largely signed notice of breach of privilege has been pending before me against the Director of Information and Public Relations, Government of Assam, for refusal to permit some daily newspapers to publish a detailed report of the proceedings of the Rajya Sabha of the 24th December, 1980, arising from the mass satyagraha on the issue of foreigners. According to the hon. Members, only brief reports of the discussion were published by some of the daily newspapers and they were anxious to publish a detailed account, but under the law in Assam, this account had to be submitted to the Director of Information and Public Relations. The said officer did not permit a second publication on the ground that the report of the Agency had already been published. This was said to raise a question of privilege as it amounted to obstruction in the discharge of the duties of a Member.

There is no question of obstruction of any kind so far as our members are concerned. The House had not ordered publication nor is it the right of the members to insist on publication. Article 361 of

the Constitution, however, by implication allows substantially true reports of any proceedings of Parliament to be published without any adverse consequences to the news papers.

The question whether the non-publication of proceedings of Parliament amounts to breach of privilege may be answered at once in the negative.

The question, however, remains whether there can be a ban by legislation or by executive fiat on any such publication. This is an important question which may some day be necessary to consider. Proceedings in the House are public property unless the House decides to the contrary. No executive fiat can issue to newspapers without authority of law. Proceedings which are open to the public, must necessarily be open to the newspapers to report. The newspapers are the eyes and ears of the public not present in the House. Unless the House puts a ban, the newspaper must be held to have the right to reproduce fairly and faithfully and accurately the proceedings or any part thereof without let or hindrance from any person not authorised by the House or by any law. The newspapers may not misrepresent by editing, adding or unfairly omitting to give a totally wrong impression.

In the present case, however, the question does not arise because what happened is this: The Report sought to be published begins by saying: 'New Delhi. Dec. 25—In reply to a Calling Attention notice on the Assam situation in the Rajya Sabha yesterday (agency report already published) the Home Minister, Shri Zail Singh, gave a resume of the various talks....' and it goes on. In the margin there is a note in relation to the observation in brackets—which I read again—agency report already published so not to be reported'. This is signed by someone 'for' Director. There is room to think that the remark was made bonafide and was induced by the words in brackets. Therefore I do not think any question of privilege arises.

The matter was, therefore, closed.

PROCESSIONS

414
RAJYA SABHA
(1966)

Point of privilege

*Banning of processions before Parliament House by
Lt. Governor*

Facts of the case and ruling by the Chairman

On the 14th November, 1966, Shri Raj Narain a member, sought to raise a question of privilege regarding a reported statement by the Lt. Governor of Delhi, Shri A. N. Jha, that processions would be banned within two miles radius of Parliament. The member contended that the Lt. Governor had no right to prevent a procession from proceeding towards Parliament and thus he had committed a breach of privilege of Parliament and its members.

2. The Leader of the House (Shri M.C. Chagla) thereafter stated *inter alia*:—

“The Lieutenant-Governor is an executive officer. He is incharge of law and order and what he said was on the question of dealing with law and order. He was not saying anything to impede Parliament from performing its functions, or prevent anybody from approaching Parliament. If he is banning a procession, he in his discretion has come to the conclusion that there is apprehension of law and order breaking down, and he has issued an order under section 144, which he is entitled to do. I do not see how the question of the dignity of Parliament arises.”

3. The Chairman (Dr. Zakir Hussain) disallowed the question of privilege.

REFLECTIONS ON HIGH DIGNITARIES

415

LOK SABHA
(1960)

Point of privilege

Derogatory references to a member and the Auditor-General by a Minister in the House.

Facts of the Case and ruling by the Speaker

On the 14th March, 1960, the Speaker (Shri M.A. Ayyangar) informed the House that he had received notice of a question of privilege regarding certain observations made by the Minister of Defence (Shri Krishna Menon) in the House on the 10th March, 1960. The Speaker added that Shri N.G. Goray, a member, had also earlier written to him requesting for expunction of certain portions of the speech of the Defence Minister.

Referring to the speech of Shri Mahanty, a member delivered in the House on the 8th March, 1960, the Defence Minister had said as follows:—

"If the hon. gentleman thinks that the moral sanction of the House resides in him, he is very much mistaken. That is an attitude of mind that requires treatment other than by my answering by speeches."

Referring to the Defence Audit Report for 1959, the Defence Minister had said:

"If it had not come from the Auditor-General and we were not familiar with it, and if I so wanted to say—I do not want to—I could have said that this was a malicious ever statement but I do not intend to say so, Sir."

2. The Speaker observed *inter alia*:

"...so far as expunction is concerned, I would like to have precedent or follow a convention that whenever an hon. Minister makes a statement which is considered defamatory or undignified instead of my exercising the right, that is, instead of the Chair exercising the right to expunge such portions. I would like that the hon. Ministers themselves, when that is the sense of the House or the opinion of the Speaker, should explain to the House or withdraw that portion; that will be more graceful."

3. The Minister of Defence (Shri Krishna Menon), withdrawing his remarks, stated:

"I do not want to explain any of these, because it is likely not only to convey the wrong impression but in a sense make the expression of regret qualified. Therefore, I would like to express my regret in regard to these two statements, to which you have made reference and request that as you direct, they may be withdrawn."

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LOK SABHA
(1996)

Point of privilege

Alleged casting of reflections on the Prime Minister and some other members by a former member in a book authored by him.

Facts of the case and ruling by the Speaker

On 1 December, 1996, a notice of question of privilege was received from Shri Lalmuni Chaubey, member, against Prof. K. Venkatagiri Gowda, a former member for allegedly making several derogatory remarks and casting reflections on the Prime Minister and some other members in a book authored by him. Shri Chaubey in his notice of question of privilege had quoted certain alleged derogatory phrases from the book and stated that the remarks had been attributed to Prime Minister with a view to malign his character as well as the pride and prestige of the Parliament. Shri Chaubey had alleged that certain derogatory remarks had also been made against the Speaker and the Minister of Home Affairs at pages 47 & 71 of the book, respectively.

Shri Lalmuni Chaubey had, however, not enclosed with his notice of question of privilege the impugned book by Prof. K. Venkatagiri Gowda.

2. On 12 December, 1996, when Shri Chaubey sought to raise the matter on the floor of the House, the Speaker (Shri P.A. Sangma) observed as follows:

"Shri Choubey, I have not gone into the merits of your notice. Your notice is not in order. I cannot accept it because under rule 223 your notice has to be accompanied by the document. You have not given the document along with your notice. The notice has to be addressed to the Secretary-General, Lok Sabha and the document also has to be addressed to the Secretary-General. I have rejected your notice."

on this ground and not on the grounds of merit. So, the matter is closed here."

3. On 12 December, 1996, Shri Lalmuni Chaubey gave another notice of question of privilege enclosing therewith the impugned book by Prof. K. Venkatagiri Gowda. In the revised notice Shri Chaubey referred only to derogatory remarks against the Prime Minister and the Home Minister.

4. On 20 December, 1996, Shri Lalmuni Chaubey raised the matter on the floor of the House with the permission of Speaker. The Speaker, thereupon, observed as follows:—

"Shri Lalmuni Chaubey, Member, gave notice of a question of privilege on 12 December, 1996, against Prof. K. Venkatagiri Gowda, former Member, alleging that he had cast reflections on the Prime Minister and the Home Minister in a book authored by him and thereby committed a breach of privilege and contempt of the House. Shri Chaubey made specific reference to the passages in the book which, according to him, cast reflections on the Prime Minister and the Home Minister. He also enclosed a copy of the book with his notices.

I have since examined the matter on the basis of the well established parliamentary privileges, past precedents, facts on record and the legal position obtaining in the matter and come to the conclusion that no question of privilege and contempt of the House is involved in the matter. I, therefore, withhold my consent to the raising of the matter by Shri Lalmuni Chaubey on a question of privilege in the House, under Rule 222 of the Rules of Procedure and Conduct of Business in the Lok Sabha."

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RAJYA SABHA
(1987)

Point of privilege

Alleged casting of reflections on the President of India by a newspaper

Facts of the case and reference to the Committee of Privileges

On the 27th April, 1987, Sarvashri Dipen Ghosh and L.K. Advani, members, raised in the House a question of privilege regarding alleged casting of reflections on the person of the then President of India, Giani Zail Singh, by one Shri Jagmit Singh Brar which were reported by *The Indian Express* in its issue dated the 26th April, 1987 under the caption

"Youth Congress (I) General-Secretary say... 'ZAIL PART OF PLOT TO DESTABILISE GOVT.'"

While raising the matter in the House, the member *inter alia* laid stress on the provisions of Article 79 of the Constitution of India which states that "There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People" and on this analogy they contended that by casting reflections on the President of India, Shri Jagmit Singh Brar had committed breach of privilege of the House.

2. On the 30th April, 1987, while referring the matter to the Committee of Privileges for examination, investigation and report, the Chairman *inter-alia* observed as follows:—

"Article 79 of the Constitution to which I have already referred provides that there shall be a Parliament for the Union which shall consist of the President and two Houses to be known as the Council of States and the House of the People. In other words, the President has been made a Part or a component of Parliament. According to May's Parliamentary Practice, 'British Parliament' is composed of the Sovereign, the House of Lords and the House of Commons. These several powers collectively form the Legislature...

.. .. .

I have not been able to find a precedent to support the contention that reflections cast on the Sovereign could be taken cognizance of by the House of Commons under its privilege jurisdiction. Here also there is no precedent to support the same contention. However, in 1984-85, our Committee of Privileges had an occasion to consider certain writings which had denigrated the person of the President. Although the Committee condemned that article and asked the Government to take suitable action against the writer within the framework of the law, the Committee had not considered in detail whether reflection on the President amounted to reflection on the Parliament and, as such, breach of its privilege. In that sense, therefore, the matter raised by Shri Dipen Ghosh and others is first of its kind and requires thorough investigation.

The Office of the President is an exalted one and maintenance of the dignity of the office is sacred national responsibility. More so when the President is defined as a part of the Parliament under our Constitution.

Under the law relating to defamation, publication

of aspersions or defamatory statements are equally punishable. The newspapers which have carried these aspersions would appear to attract the same penalties as the person who makes them.

Findings and recommendations of the Committee

3. The Committee of Privileges after considering the opinion of the Attorney General of India in this regard and also after analysing the information received from Parliaments of some of the Commonwealth countries in their Twenty-seventh Report presented to the House on July 26, 1991 reported *inter alia* as follows:—

- (i) As observed by the Chairman in his ruling the present inquiry is the first of its kind. The Committee, therefore, thought it appropriate to ascertain the position obtaining in some Commonwealth countries, like the United Kingdom, Canada and Australia. The Committee understand that there had not arisen any situation whereby the House had to consider the question of Kingdom, although the privileges of Parliament attach to Parliament as a whole (including the Queen), each House, is, however, only concerned in enforcing its privileges in respect of its own body and members since privileges are considered as rights which are absolutely necessary for the exercise of the powers of the body concerned and they could not therefore, be claimed by one body in respect of another. In Canada also privilege attaches to each House and its members and no principle of Parliamentary privilege with respect to the Sovereign has ever been invoked despite the provision contained in the Canadian Constitution which makes the Queen a constituent part of the Parliament of Canada. It is because the Sovereign (*i.e.* The Queen) in her capacity as Head of State enjoys executive privilege. In Australia also the position is akin to the one obtaining in the United Kingdom and Canada. However, the traditional offence of defamatory contempt has been abolished there by an enactment. The Parliamentary Privileges Act, 1987 provides that words or actions shall not be taken to be an offence against a House by reason only that those words or acts are defamatory or critical of the Parliament, a House, a Committee or a Member. Unless the reflections interfere with the free exercise by a House, or Committee or a Member of its or his functions, the question of contempt, as per provision of the Act does

not arise. Thus, reflections on the Queen as such, cannot involve a question of Contempt. The Committee are grateful to the Clerks of Parliaments of the United Kingdom, Canada and Australia for providing information on the point under Committee's consideration.

- (ii) "Besides the information in respect of the three commonwealth countries, the Committee also sought the opinion of the Attorney-General on the following three points:—
 - (a) The precise scope of article 79 of the Constitution.
 - (b) Whether aspersions cast on the President could be terms as derogatory to the institution of Parliament, thereby attracting its privilege jurisdiction; and
 - (c) Adequacy of the existing law to punish derogatory and undignified writings against the person of the President.

* * * * *

"In his opinion on the first point, the Attorney-General has stated that the President has been made a component part of Parliament only for the limited purpose of exercising certain legislative powers, such as, every Bill passed by Parliament is required to be presented to the President for assent under article 111 or article 368 of the Constitution. So far as the second point is concerned, the view of the Attorney-General is that in terms of article 105(3) of the Constitution, privileges are conferred not on the Parliament as such, but only on each House of Parliament and on Members and on Committees of each House. No powers, privileges or immunities as such have been conferred on the President as a component part of Parliament. So far as the adequacy or otherwise of the existing law to punish derogatory and undignified remarks and writings against the person of the President is concerned, the Attorney-General has felt that it is a question for a policy decision and if it is desired that such a situation should be adequately dealt with, it has to be done by suitable legislation and/or by an amendment of the Constitution."

- (iii) "In view of the eventual decision the Committee are reaching, the Committee do not feel it necessary to express its views on the interpretation or scope of Article 79 of the

Constitution. About four years have elapsed since the matter was referred to the Committee by the Chairman and in view of the change of circumstances which have occurred since then, the Committee recommend that the matter may be

treated as closed and be allowed to rest here."

Action taken by the House

4. No further action was taken by the House in the matter.

REFLECTIONS ON HOUSE/MEMBERS/PROCEEDINGS

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**LOK SABHA
(1955)**

Point of privilege

Reflection upon Members in a Press comment concerning a debate in the House

Facts of the case and ruling by the Speaker

On the 30th August, 1955 Shri Sarangadhar Das, a member, raised a question of privilege arising out of comments appearing in the *Pratap*, an Urdu daily paper, dated the 26th August, 1955, concerning the debate in the Lok Sabha on the Report of the Press Commission. The portion of the article objected to was as under:—

“Put in the Lok Sabha some brave speeches were made with a view to impress on the Press Reporters that they had no better well wishers than the members. It is said that the peasant's greeting is not without any purpose. These members' speeches were not without any objective either and it is possible that these speeches were made for some consideration.”

2. Shri Sarangadhar Das stated that the above passage extracted from the proprietors article was an affront to the integrity of the members who had participated in the discussions on the Press Commission's Report held on that day.

3. The Deputy Speaker, who was in the Chair, observed that it was *prima facie* a case of contempt or breach of privilege of the House. But in view of the fact that the author of the article had published an unconditional apology in the *Pratap*, dated the 29th August, 1955, and the Managing Proprietor of the paper had also addressed a letter to the Speaker tendering an unqualified apology, it was not necessary to pursue the matter any further.

4. The House agreed and the matter was dropped.

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**LOK SABHA
(1959)**

Point of privilege

Casting aspersions on Parliament

Facts of the case and reference to the Committee or privileges

On the 10th February, 1959, Shri A. B. Vajpayee, a member, sought to raise a question of privilege in the House on the ground that Shri M. O. Mathai, former Special Assistant to the Prime Minister in the course of his letter¹ to the Prime Minister had made certain remarks which constituted a serious breach of privilege of the House. The said remarks were as follows:—

“But the ever-mounting tendency in our Parliament and our Press to attack public servants without caring to verify facts is having a devastatingly demoralising effect. Under such deplorable conditions very few self-respecting persons will care to enter Government service or public life.”

Shri Vajpayee contended that:

“....Shri Mathai has made a wild charge against this House.....He has accused the House of growing tendency to attack public servants without even caring for facts.....And that letter has been circulated by the Press Information Bureau of the Government of India and with the permission of the Prime Minister who is the Leader of the House and is expected to safeguard the dignity and honour of this House.....”

‘I think the statement is quite clear, self-evident, and it amounts to a breach of privilege of this House.....’

2. The Prime Minister (Shri Jawaharlal Nehru) stated as follows:—

“I should like to distinguish if I may, between an impropriety and a question of privilege.

Speaking for myself, I think that the wording

¹The impugned letter was reported in the newspapers on the 17th January, 1959.

referred to is regrettable and not proper. That is a different matter. And, as a matter of fact, I am given to understand that Shri Mathai some time ago addressed you on this question expressing his deep regret that in a moment of whatever it was he wrote something without ever intending anything against the dignity of this House....."

* * *

....while these remarks are unfortunate and regrettable and for my part, I regret them, and Mr. Mathai also is deeply sorry, as he has expressed it to you, Sir, yet, so far as the question of privilege is concerned, I do not think that is raised, and as far as I know, whenever something even much stronger than this has been said on these lines, it has been held elsewhere that no question of privilege is, raised, I merely make this submission to you; it is for you to decide."

3. The Speaker gave his consent to the raising of the question of privilege and asked those members who were in favour of leave being granted to rise in their seats. As more than 25 Members rose in their seats, the Speaker announced that leave was granted.

4. Shri H.N. Mukerjee, another member, then moved the following motion:—

"That the attention of the House having been drawn by some honourable members on February 10, 1959, to a letter written to the Prime Minister by his Special Assistant Shri M.O. Mathai and made public on January 17, 1959 through press release by the Prime Minister's Secretariat and the Press Information Bureau of the Government of India in which the said Shri M.O. Mathai, *inter alia*, remarks:

'But the ever-mounting tendency in our Parliament and our Press to attack public servants without caring to verify facts is having a devastatingly demoralising effect. Under such deplorable conditions very few self-respecting persons will care to enter Government service or public life.'

The House resolves that the matter be referred to the Committee of Privileges for investigation and report whether the above-mentioned remarks of Shri M.O. Mathai made public through the Prime Minister's Secretariat and the Press Information Bureau of the

Government of India constitute an adverse reflection on the dignity of the Members of Parliament and the Speaker of the Lok Sabha and whether they constitute a contempt of Parliament and also to recommend what further steps the House may take in the matter."

In support of his motion, Shri H.N. Mukerjee stated, *inter alia*, as follows:

".....This is a very serious reflection indirect but extremely positive and categorical, in regard to the conduct of proceedings in this House by yourself. It is very clear that Mr. Mathai implies that the proceedings of this House are not regulated as they ought to be, that public servants are criticised, without their having an opportunity, to refute the allegations made here, that members of Parliament who are under the discipline which the Speaker imposes attack public servants with impunity without caring to verify facts. This, I submit, is a very clear reflection on the conduct of the Chair and the Chair being the repository of the privileges of this House, it is a very serious matter of which cognizance should be taken.

* * *

Apart from this reflection on your conduct in regulating the proceedings of this House, there is a very serious imputation that members of Parliament are habituated to attacking public servants without caring to verify facts.

* * *

.... he suggests very clearly that certain deplorable conditions are created by members of Parliament which make it impossible for self-respecting person to care to enter government service.."

5. The Prime Minister (Shri Jawaharlal Nehru) did not oppose the reference of the matter to the Committee of Privileges and stated *inter alia* that:

".....After all the dignity of the House may suffer in various ways and it may suffer even by attaching too great an importance to trivial matters. It is not merely a question of another person or other persons saying. What other persons say may affect the dignity of the House but how we treat it also affects the dignity of the House.

I beg your leave to read a few lines from what I said on a previous occasion because a reference

has been made to that. On that occasion when the telegram from the Chief Minister of Kerala became the subject of argument here, I said this and I hold by it today.

'I am a little anxious that we should not enter into a path of conflict in such matters, because this kind of thing might be overdone. There are things said often enough which are not desirable and things said in the heat of the moment which a person thinking more coolly would not have said. if we pursue every person who makes a statement like that, I do not know how many of us will be completely innocent of never making any remarks which might not be held up against us. We are all human beings, and I know that I err sometimes, Sir, though I hope not too often. So, from that point of view if my mind was quite clear that if it was a deliberate flouting of the dignity of Parliament or of any individual member of Parliament, then, of course, there can be no doubt that that challenge has to be met. But where in other contexts in the heat of the moment or in a controversy something is said, I would personally prefer this House not to take too much notice of it. But as I said, this is my personal reaction which I place before this House.'

I hope I have been consistent in this matter, not with any idea of avoiding this reference because I support this reference to the Privileges Committee; but, quite apart from this, for the future, I may submit that it is a matter of maintaining the dignity of the House by not attaching too much importance to every odd word that some outsider says."

6. After some discussion the motion moved by Shri H.N. Mukerjee for referring the matter to the Committee of Privileges was put and adopted by the House.

Findings and recommendations of the Committee

7. The Committee of Privileges, in their Ninth Report presented to the House on 6th March, 1959 reported *inter alia* as follows:—

- (i) "The Committee have carefully considered the remarks made by Shri M.O. Mathai in his letter of resignation to the Prime Minister, which are mentioned in the reference made by the House to the Committee. The Committee are of the opinion that such remarks which cast aspersions and attribute irresponsibility tend to diminish the respect due to

Parliament. Strictly construed, they would amount to a breach of the privileges of the House. The Committee, however, feel that it is not consistent with the dignity of the House to take notice of every such statement which may technically constitute a contempt of the House. The House would best consult its dignity if it ignored such improprieties and indiscretions."

- (ii) "The Committee have also noted the expression of regret by Shri M.O. Mathai in his letter dated 11th February, 1959 to the Speaker, Lok Sabha, which reads:

'I deeply regret that my letter of resignation to the Prime Minister recently published in the Press should have given the impression that I meant to cast any aspersions on Parliament. I should like to assure you that nothing was farther from my thoughts and I am sorry if I said anything that could have been thus interpreted'."

- (iii) "The Committee are of the opinion that there is no reflection on the Speaker in the words used."

- (iv) "The Committee recommend that in the circumstances, no further action be taken by the House in the case."

Action taken by the House

8. No further action was taken by the House in the matter.

420

LOK SABHA

(1959)

Point of privilege

Alleged reflections on members of Parliament in a State Legislative Assembly

Facts of the case and ruling by the Speaker

On the 26th March 1959, Shri P.K. Deo, a member, drew the attention of the House to the following news item appearing under the caption 'Who does not give false accounts' in *Samaj*, an Oriya daily newspaper of Bhubaneshwar, in its issue of the 18th March, 1959:—

"In reply to the criticism of some members that Block Development Officers have been using Government jeeps for their own work and have been submitting false accounts so that they may not be caught, Dr. Mehtab, the Chief Minister,

replied in a realist manner. Aiming at the critics the hon. Chief Minister said that members of the Legislative Assembly and members of the Parliament also furnish false accounts, (false vouchers). The Chief Minister further sought the advice of others for its remedy."

Shri Deo contended that passing of such sweeping and general remarks against members of Parliament constituted a reflection on the House and said that the Chief Minister of Orissa (Dr. Hare Krushna Mehtab) had selected the most opportune time to hit the members of Parliament below the belt, thinking that he would get the protection of Article 194(2) of the Constitution under which any action or proceedings in the Legislative Assembly of a State could not be questioned in any court of law. Shri Deo felt that a *prima facie* case had been established and, therefore, Dr. Mehtab and the editor of the *Samaj* might be called to Bar of the House to explain their conduct or in the alternative, the matter might be referred to the Committee of Privileges for investigation and report by a specified date.

2. The Minister of Home Affairs (Pandit G.B. Pant) in opposing the point of privilege raised by Shri Deo observed:

"I do not at all think this report is correct. If any statement like that has been made, it is unfortunate and I would be sorry that any responsible person should have made such a statement. But so far as the motion of privilege is concerned, the proceedings of all Legislatures and Parliament are privileged and no action can be taken in one House for anything that is said in another House. It may be right, it may be wrong, it may be something trivial or small. We may not like that at all. But, still this is not the remedy. So, while I would be sorry if such a statement has been made no question of privilege arises."

3. The Speaker observed as follows:—

"I merely brought it up for the purpose of finding out what exact jurisdiction we will have, before I give consent to raise it in the House itself. This is a preliminary stage. I am not giving my consent just now...First of all, we do not have the statement of the hon. Chief Minister, what exactly he said, because people who are sitting in the Galleries may understand it in a different way...."

I agree with the views of the hon. Home Minister. I am not going to give my consent for the reason that each House is supreme as far as its own proceedings are concerned. The immunity that we have in this House for being charged for defamation or any other

charge by any other person or any other legislature the same immunity applies to him also. If really the hon. Chief Minister has said what he is alleged to have said, it is regrettable as the hon. Home Minister has said I am sure that if any hon. Minister or any member in any other House takes advantage of the immunity there the other fourteen States with their legislatures, including Upper Houses, will also take advantage of it. Now if it is really true, this ought not to be continued. I hope and trust that this wholesome principle will be followed everywhere—no House will cast any aspersion and no member will cast any aspersion on any members of the other House or any other House in this way. I do not give my consent to this I will treat it as closed."

421

LOK SABHA

(1959)

Point of privilege

Alleged reflection on a member by another member outside the House

Facts of the case and ruling by the Speaker

On the 7th May, 1959, Shri Frank Anthony, a member, sought to raise a question of privilege arising out of the following report of a speech alleged to have been made by Shri Joachim Alva another member, outside the House and published in the *Times of India* of that date:

"Mr. Alva suspected that some foreign powers were behind Mr. Anthony's move."

Shri Anthony stated that the reference was to his Resolution for inclusion of English in the Eighth Schedule to the Constitution which was before the House. He contended that the allegation that they were functioning in the House virtually as foreign agents was a deliberate, malicious untruth and a wanton breach of privilege of the House.

2. The Speaker (Shri M.A. Ayyangar) observed that he had not given his consent to the raising of the matter as a question of privilege, but had only allowed Shri Frank Anthony to mention it because the member had said that it was an urgent matter and it could not brook any delay. The Speaker added that the member had come to him just at the nick of the moment and he had no time to go into it. He, therefore, reserved his ruling.

3. Shri Joachim Alva, the member concerned, stated that:

"I may tell the hon. House that I would be the last person to attack the personal character of any fellow-member of Parliament. I would be ashamed myself to call an hon. member a dog; then I shall have to prepare myself to be called a dog. I only said that this agitation for the English language may assume dangerous proportions; foreigners may take advantage of this. This is all I said I never used the words 'foreign agent'."

4. On the 9th May, 1959, the Speaker observed *inter alia* that:—

"Hon. members may be aware that the other day Shri Anthony came to me post-haste inside the Chamber and wanted an opportunity to raise a privilege motion. He said that Shri Joachim Alva is reported to have said—in the *Times of India* that Shri Anthony's motion for the inclusion of English was inspired by some foreigners and so on. Shri Joachim Alva immediately got up and said that it was not what he said and that he spoke something else. After that I thought there was nothing more to be done and that it need not be pursued.

Some hon. members suggested that there was a report in the Press and as against it the hon. member has now made a statement in the House. I always prefer the statement of hon. members of this House to what appears in the newspaper. Therefore, I thought it was not necessary to pursue the matter at all.

But Shri Anthony came to me and said that I must ask the *Times of India* as to why they have reported like that and so on. I thought of asking them independently of this. In the case of such statements the veracity of any hon. member who has made a statement should not depend upon the veracity or otherwise of the Press correspondent. Hon. Members must themselves give respect to one another and to Parliament as a whole. There is no meaning in trying to pursue this matter. However, I will get the

explanation¹ from the *Times of India* correspondent. But I do not want to make this question dependent upon that and so I refuse to give my consent to moving this motion."

5. Dr. Ram Subhag Singh and certain other members stated that there was no need to ask the Press correspondent to explain how he reported the alleged statement. The Speaker then observed:

"If the House does not want me to ask the Press why it was reported like that I will drop it."

422

LOK SABHA

(1960)

Point of privilege

Derogatory references to a member and the Auditor General by a Minister in the House

For details of the case please see summary No. 415 at p. 564 ante.

423

LOK SABHA

(1960)

Point of privilege

Alleged reflections against legislators of a particular political party

Facts of the case and ruling by the Speaker

On the 20th April, 1960, the Speaker (Shri M.A. Ayyangar informed the House that he had received notice of a question of privilege from Shri R.K. Khadilkar, a member, which stated *inter alia*:

"A friend of mine drew my attention to a speech delivered by Shri C. Rajagopalachari at Chandigarh on the 24th March, 1960. It has been reported in the leading English daily *The Indian Express* of the 26th March, 1960. The report says:

'Mr. Rajagopalachari said that its (Congress) representatives in the legislatures were such people whom any first class magistrate would round up. They were men without any appreciable means of livelihood.'

Prima facie, it is a contempt of the House and therefore serious notice of it should be taken."

¹The following correction was published by the *Times of India* of its own accord in its issue dated the 13th May, 1959:

"In the *Times of India* of May 7, a report appeared of what Mr. Joachim Alva, M.P. said at a meeting organised by the Delhi Pradeshik Hindi Sahitya Sammelan at Darbar Hall, Delhi, on Wednesday, May 6. This was an erroneous report.

What Mr. Alva actually said was that if the agitation for English assumed dangerous proportions, some foreigner might take advantage of it. The error in reporting is deeply regretted."

2. The Speaker disallowing the question of privilege, observed *inter alia* as follows:—

“A similar question arose in the House of Commons, U.K. on the 21st June, 1954, when a member, Sir H. Williams, brought to the notices of the Speaker the following portion of a speech attributed to another member Mr. Shinwell, appearing in that day's *Daily Mail*:

‘Mr. E. Shinwell Socialist M.P. predicted an election at the end of the year when he spoke at a Labour Party Gala. He said it would be an opportunity to ‘get rid of the crazy Tories—the wretches, the rascals the rapsallions’.”

The member contended that the reference was clearly to members on the side of the Treasury Benches and as such it was a gross breach of the privilege of the House. Thereupon the Speaker observed:

‘.....My view of it is that hard words used against persons and parties are dealt with, if necessary, by the law of defamation, and it is only where the House as a whole is affected by the spoken word that, to my mind, a question of privilege arises. In this case, it seems to me that these offensive epithets are selective in their application. Therefore, of the words complained of, I could not really find a *prima facie* case of breach of privilege.....’

I only want to tell hon. members that we ought not be a little too touchy with respect to these matters. Each party attacks the other party.... I may refer to the ruling given by the Speaker of the House of Commons, U.K., in another case, which may be borne in mind by all hon. members. It reads:

‘.....however grave the charges and imputations made in that article may be, I do not think it is a case of privilege. It has been the practice of this House to restrain privilege under great limitations and conditions; and these restrictions and limitations have been, in my opinion, very wisely imposed by the House upon itself. The rule is that, when imputations are made, in order to raise a case of privilege, the imputation must refer to the action of honourable members in the discharge of their duties in the actual transaction of the

business of this House and though I quite understand the honourable Baronet having brought this matter to my notice, I cannot rule that this is a case of privilege. Of course, if the honourable members think themselves aggrieved they have a remedy; and they will not be precluded from pursuing their remedy elsewhere than in this House.’

This matter is closed.”

424
LOK SABHA
(1960)

Point of privilege

Casting aspersions on the Speaker and the House in a printed pamphlet

Facts of the case and reference to the Committee of Privileges

On the 30th August, 1960, Shri Hem Barua, a member, drew the attention of the House to the following passage appearing in a pamphlet entitled ‘An Open Letter to Jawaharlal Nehru, *in re*: Assam Tragedy (1960)’ by Shri Dhirendra Bhowmick of Calcutta:—

“Is there any democratic country in the civilized world whose legislature would cold-storage a debate on a momentous issue like the one concerning the Assam atrocities, because it does not suit the interests of some of the leaders of the ruling Party? The most august body, the Parliament has been turned into a private club by the Congress Government headed by Jawaharlal Nehru. The Speaker himself most shamelessly chose to be the second fiddle in the hands of the ruling party, so unlike late V.J. Patel of hallowed memory. Thus every sacred institution of the country is being debased by the accursed leadership which is purblind and is in the leading strings of others who are stone-blind. Parliament has lost its dignity in the hands of docile and ‘Jo-Hukam’ members. Are we not already witnessing the dictatorship of Congress Party in operation? Look at the arguments put forward by Jawaharlal and Govind Ballav Pant in favour of postponement of the Assam debate *sine die* encroaching on the sacred democratic rights of members of the Parliament to debate the issue. A child would hate to

sponsor such silly arguments. But all the same, they carried the day with the help of an obliging Speaker. The whole thing was fraud on the conscience of the nation."

He contended that the passage cast aspersions on the Speaker and the House and therefore, constituted a breach of privilege of the House. He then moved the following motion and the House agreed:—

"That this matter be referred to the Committee of Privileges for consideration and report."

Findings and recommendations of the Committee

2. The Committee of Privileges, in their Eleventh Report presented to the House on the 12th December, 1960, reported *inter alia* as follows:—

- (i) "The Committee have carefully considered the matter referred to them and the explanation dated 6 October, 1960, submitted by Shri Dharendra Bhowmick.....Having read the pamphlet..... and the explanation submitted by Shri Dharendra Bhowmick, the Committee have come to the conclusion that the passage complained of casts aspersions on the Speaker and the House and, therefore, constitutes a breach of privilege and contempt of the House."
- (ii) "However, from the incoherence of his reply and the tenor thereof, the Committee have come to the conclusion that Shri Dharendra Bhowmick is not a person whose writing should be taken notice of seriously. The Committee are, therefore, of the view that the House would best consult its own dignity by taking no further notice of the matter. This would be in conformity with the traditions of the House."
- (iii) "The Committee noted incidentally that the pamphlet.....did not indicate the name of the printer and the place of printing of the pamphlet, as required by section 3 of the Press and Registration of Books Act, 1867.....The Minister of Home Affairs informed the Committee that the Government of West Bengal had furnished the following information in their letter dated the 20th October, 1960:—
'.....that the publication referred to above came to the State Government's notice only last month and that necessary

action is being taken in respect of the contravention of Section 3 of the Press and Registration of Books Act, 1867'."

- (iv) "The Committee recommend that no further action be taken by the House in this case."

Action taken by the House

3. No further action was taken by the House in the matter.

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LOK SABHA

(1961)

Point of privilege

Publication of comments in a newspaper casting reflections on the conduct of a member

Facts of the case and ruling by the Speaker

On the 4th April 1961, Shri Hem Barua, a member, sought to raise in the House a question of privilege regarding the following comments published in the *New Age*, dated the 2nd April, 1961, in reference to his statement in the House on the 28th March, 1961 regarding Oil well No. 1 at Rudrasagar:—

"One can only say that prejudice makes some people so utterly blind sometimes that sense of proportion is completely lost and to defame certain policies and persons connected with them, they can stoop to the lowest mendacity."

2. The Speaker (Shri M.A. Ayyangar) observed that before giving his consent to the raising of the matter, he would call for an explanation of the Editor, *New Age*.

3. On the 2nd May, 1961, the Speaker informed the House that he had received the following letter from Shri P.C. Joshi, the Editor of *New Age*:—

"Regarding the matter raised in your letter, I must at once submit that I had or have no intention whatsoever to commit any breach of privilege of the Lok Sabha nor do anything which would hamper any hon. member of the House from discharging his duties in the House."

The comments quoted in your letter and which appeared in the *New Age* dated 2nd April were made in the context of expressing honest and *bona fide* opinion on the statements made by Shri Hem Barua regarding the Rudrasagar Oil well. I may also submit that the portion

quoted in your letter only means that there was a tendency to distort facts and I considered that as an editor of a responsible newspaper it was my duty to bring to the notice of the public such matters involving national interest. I felt the Government in the present case was not being criticised fairly and correctly.

I once again assure you that in making the above publication there was absolutely no bad intention at all and no disrespect was meant to the House or to any of its hon. members."

4. Thereupon, Shri Hem Barua stated *inter alia*:-

"I would have very much liked the editor to have come out with a straight forward expression of regret. That he has not done. On the other hand, he tries to justify what he has said. But I think I should show my magnanimity after saying all these things, since he says that he has not meant any disrespect to the House. But at the same time, I would say a hundred times that he has tried to cover up or camouflage these illfounded attacks against me by wrong statements. But in spite of that, I cannot be bullied, I cannot be threatened. I have that amount of courage. In spite of these allegations and charges I will be going on discharging the responsibilities entrusted to me by my people.

But whatever that might be, since he has said that he did not mean any disrespect—he has not expressed any regret—but since he has said that he did not mean any disrespect, I do not want to press the privilege motion. I withdraw the privilege motion."

5. Closing the matter, the Speaker observed as follows:-

".....I thought, so far as the reply is concerned, that the reply might have been more unequivocal. Using expressions against a member that he is stooping to mendacity and so on and so forth—not only in this case but against any member—is likely to detract from his legitimate duties.....I am happy that Shri Hem Barua has shown an amount of magnanimity and that he does not want to press the motion.

No further action will be taken on this."

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LOK SABHA
(1961)

Point of privilege

Casting reflections on a member on account of his speech and conduct in the House by a newspaper

Facts of the case and reference to the Committee of privileges

On the 20th April, 1961, Shri Khushwaqt Rai, a member, raised a question of privilege regarding the following despatch and a photograph of Shri J. B. Kripalani, a member, with the caption 'Kripaloony' underneath, published in the *Blitz*, a weekly news-magazine of Bombay, dated the 15th April, 1961:—

"The Kripaloony Impeachment

BAD, BLACK, BALD LIES.

From A. Raghavan: *Blitz's Delhi Bureau.*

NEW DELHI: In its content, tenor and style, Acharya Kripalani's performance during the defence debate on Tuesday could be the envy of any American Senator who has not yet over come his McArthian moorings. He made it easy for the Prime Minister and the Defence Minister to demolish an impotent impeachment of our Defence built upon bad, bald and black lies and uttered in the hysteric manner of a violent epileptic.

In the lousiest and cheapest speech ever made since he was elected to Parliament by the courtesy of the Congress and Mr. Nehru, he demanded the head of the Defence Minister on a charger and made an important appeal to the Congressmen opposite to turn him out of the Government as the British Tories turned out Joseph Chamberlain.

By making a cocktail of plain hearsay, ancient Defence irregularities not even remotely connected with the tenure of the present Defence Minister and violence of speech, the senile Acharya overshot himself so much so that even his usual backers in the Congress ranks were heard saying in the lobbies that his was a self-defeating performance.

After Mr. Nehru and Mr. Menon tore his indictment into shreds, the whole House, with the exception of a few rabid PSP and Swatantra supporters, shouted him down like some bazar-buffoon."

2. After a brief debate, Shri Nath Pai, another member moved the following motion which was adopted by the House:—

“That this matter be referred to the Committee of Privileges for consideration and report by the 30th April, 1961.”

Preliminary Report of the Committee

3. The Committee of Privileges in their Twelfth Report presented to the House on the 28th April, 1961, reported *inter alia* as follows:—

- (i) “At their sitting held on the 26th April, 1961, the Committee considered the letters dated the 24th and 25th April, 1961, received from Sarvashri R. K. Karanjia and A. Raghavan (the Editor and New Delhi Correspondent of the *Blitz*), respectively.

The Committee noted that Shri R. K. Karanjia had asked for six weeks' time for submission of his explanation to the Committee and had sent in a medical certificate saying that he was suffering from some ailment and had been advised to take two weeks' rest. The Committee felt that, in the circumstances, he might be granted the extension of time requested by him.”

- (ii) “The Committee also felt that they could not accede to the request of Shri A. Raghavan to grant him six weeks' time, for submission of his explanation to the Committee, as his case stood on a different footing from that of Shri R. K. Karanjia inasmuch as he was in New Delhi and working as a correspondent accredited to the Press Gallery of Lok Sabha.

The Committee, accordingly decided that he be again asked to appear before them on Friday, the 5th May, 1961, or in the alternative, to send his final written reply in the matter by that date, at the latest, for the consideration of the Committee.”

- (iii) “The Committee recommend that in the circumstances, the time for the presentation of their report to the House be extended upto the last day of the first week of the next session.”

- (iv) “The Committee also recommend that in the event of re-constitution of the Committee of Privileges before the presentation of their final report to the House on this question of privilege, the matter may be considered by the re-constituted Committee.”

Action taken by the House

4. On the 1st May, 1961, the Chairman of the Committee of Privileges (Sardar Hukam Singh) moved the following motion which was adopted by the House:—

“That this House agrees with the Twelfth Report of the Committee of Privileges presented to the House on the 28th April, 1961.”

5. After the Report was adopted, the Speaker (Shri M. A. Ayyangar) announced that he did not propose to re-constitute the Committee and would allow the existing Committee to proceed and dispose of this matter.

Findings and Recommendations of the Committee

6. The Committee of Privileges, in their Thirteenth Report, presented to the House on the 11th August, 1961, reported *inter alia* as follows:—

- (i) “Both Shri R. K. Karanjia and Shri A. Raghavan, in their second written statements submitted to the Committee, raised a ‘preliminary objection’ that they had not been furnished with the specific grounds on the basis of which they were alleged to have committed a breach of the privileges of the House. The Committee considered this objection carefully and decided that since they had already forwarded to both of them the relevant extracts from the Lok Sabha Debates, dated the 20th April, 1961, wherein the charge of alleged breach of privilege had been made by Shri Khushwaqt Rai, M.P., there was nothing further to be conveyed to them in that connection.

It is significant to note in this connection that in their first letters dated the 24th and 25th April, 1961 respectively seeking extension of time for sending their detailed replies, neither Shri Karanjia nor Shri Raghavan even hinted that the charge against them was not clear to them. In fact, Shri Karanjia had stated in his letter of 24th April, 1961 that Shri Khushwaqt Rai, M.P. had cited (in his speech in the

House on the 20th April, 1961) a formidable list of authorities in support of the case against him (Shri Karanjia), and that the letter would rely on equally formidable and more telling authorities in his defence. Apart from this, the Committee twice gave opportunities to both Shri Karanjia and Shri Raghavan to appear before the Committee and explain their positions, if they so desired. Neither of them chose to avail of those opportunities. If they had really felt the need of any clarification, there was nothing to prevent them from appearing before the Committee. The plea of 'not being informed of the precise charge' is an after-thought and an attempt to exhibit and appearance of innocence.

The fact that Shri Karanjia was aware of the charge against him is clear from the following passages in his own written statement:

- (a) 'The motion which was referred to your Committee and the efforts of your Committee to consider the alleged libel on Mr. Kripalani, M.P., are inconsistent with the privileges of the house of Commons which alone are the privileges of the Parliament under our Constitution.'
- (b) 'Mr. Khuswaqt Rai made a grievance that Mr. Kripalani was libelled in the BLITZ dispatch.'
- (c) 'It is significant, Sir, that during the entire breach of privilege debate on 20th April last, Mr. Kripalani did not once raise his voice. Mr. Kripalani remained silent or absent. Some other members alleged that he was defamed or something to that effect.'

Not only this, the Committee find that Shri Karanjia has, in fact, taken elaborate pains in paras 58 to 88 of his written statement to explain and justify, on the plea of 'fair comment' the alleged libellous expressions used in the impugned despatch published in the *Blitz* and pointed out by Shri Khuswaqt Rai, M.P., in his speech in the House. Further, Shri Karanjia has concluded his explanation by adding in para 88 of his written statement: 'I have dealt with

whatever specific grounds I could gather from Mr. Khuswaqt Rai's speech'. The Committee feel convinced that Shri Karanjia was very well aware of the charge against him, and he has answered every aspect of it. Rather he has done more than was needed.

In view of the above, the Committee are unable to accept the plea of Sarvashri R. K. Karanjia and A. Raghavan that they were not informed of the precise charge of the specific grounds on the basis of which they were alleged to have committed a breach of privilege and contempt of the House."

(ii) "One of Shri Karanjia's main contentions is that Article 105(3) of the Constitution, which provides that 'the powers, privileges and immunities of each House of Parliament, and of the members and the Committees of each House shall be.... those of the House of Commons of the Parliament of the United Kingdom, and of its members and Committees at the commencement of this Constitution', must be read as subject to Article 19(1) (a) which guarantees to all citizens the fundamental right to freedom of speech and expression', which includes within its scope the freedom of the Press. Shri Karanjia seems to imply thereby that any action taken by Lok Sabha against any newspaper for a breach of privilege and contempt of the House, in pursuance of its powers and privileges under Article 105(3), would violate Article 19(1) (a) and be void in terms of Article 13. This contention is wrong and cannot be accepted. The provisions of Article 105(3) [as also of Article 194(3)] are constitutional laws and not ordinary laws made by Parliament (or a State Legislature) and therefore they are as supreme as the provisions of Part III of the Constitution. The provisions of Article 19(1) (a) of the Constitution, which are general must therefore yield to the latter part of Article 105(3) which are special. The correct position in this regard has been stated by the Supreme Court in the *Searchlight Case*."¹

(iii) "Shri Karanjia has also questioned the jurisdiction of the Committee 'to entertain the alleged breach of privilege of Mr. Kripalani' on the ground that 'the motion which was referred

¹M.S.M. Sharma V. Shri Krishna Sinha and other A.I.R., (1959), S.C. 395-422.

to your Committee and the efforts of your Committee to consider the alleged libel on Mr. Kripalani, MP., are inconsistent with the privileges of the House of Commons which alone are the privileges of the Parliament under our Constitution.' His argument is that 'the matter could have been raised only as a breach of the privilege relating to publication of the debate and the incidental issues concerning one member alone, Mr. Kripalani, could be cited as an aggravation of the offence'. Shri Karanjia has also given a list of eight instances of misconduct in connection with the publication of the debates as given in *May's Parliamentary Practice* (16th Ed., pp. 118-119), in order to show that the charge of breach of privilege made by Shri Khushwaqt Rai, M.P., against him does not fall under anyone of them.

The Committee find that the above argument of Shri Karanjia is misconceived as the question of privilege raised by Shri Khushwaqt Rai, M.P., was based on the allegation that the despatch in question published in the *Blitz* cast aspersions on the conduct of Shri Kripalani as a member of the House. The passages from *May* quoted by Shri Karanjia in this connection are not relevant. The gravamen of the charge against the *Blitz* is not that it published a report of the debates or proceedings in the House but that it cast libellous reflections on a member of the House on account of his speech and conduct in Parliament. This type of contempt is quite distinct from the instances of misconduct in connection with the publication of the debates of the House and is dealt with separately by *May* at pp. 124-126. The relevant and appropriate extracts from *May's Parliamentary Practice* are as follows:

'Analogous to molestation of Members on account of their behaviour in Parliament are speeches and writings reflecting upon their conduct as members. On 26 February, 1701, the House of Commons, resolved that to print or publish any libels reflecting upon any member of the House for or relating to his service therein, was a high violation of the rights and privileges of the House.

Written imputations, as affecting a member of Parliament, may amount to breach of Privilege,

without, perhaps, being libels at common law, but to constitute a breach of privilege a libel upon a member must concern the character or conduct of the Member in that capacity:

Both Houses will punish not only contempts arising out of facts of which the ordinary courts will take cognizance, but those of which the ordinary courts will take cognizance, but those of which they cannot, such as contemptuous insults, gross calumny or foul epithets by word of mouth not within the category of actionable slander or threat of bodily injury.'

(*May*, 16th Ed., pp. 124-125)

In this connection, attention may also be invited to the following resolution adopted by the House of Commons. U.K. on 22 April, 1699:

"That the publishing the names of the members of this House and reflecting upon them, and misrepresenting their proceedings in Parliament is a breach of the privilege of this House, and destructive of the freedom of Parliament.

(*May*, 16th Ed., p. 126)"

(iv) "Shri Karanjia has also dwelt at great length on the freedom of the Press. He has asserted that 'comments in a newspaper' can never impede proceedings of a Legislative Chamber' and that 'even the most violent comment cannot impair the ability of a member to function unless the latter himself is a weak person.'

The right to freedom of speech and expression is a fundamental right guaranteed to all citizens under Article 19(1) (a) of the Constitution. Although the freedom of the Press as such is not specifically provided for in the Constitution, it has been held¹ that the freedom of the Press is implicit in the freedom of speech and expression conferred on a citizen under Article 19(1) (a). It must, however, be remembered that being only a right flowing from the freedom of speech and expression, the freedom of the Press does not stand on a higher footing than the freedom of speech and expression enjoyed by a citizen and that no privilege attaches to the Press as such, that is to say, as distinct from the freedom of speech and

¹(1950) S. C. R. 594, (1950) S. C. R. 605; A. I. R. (1958) S. C. 578; A. I. R. (1959) S. C. 395.

expression of a citizen.¹ Actually, a newspaper writer should be more cautious than a private citizen as his criticisms are widely publicised."

- (v) "Shri Karanjia has pleaded justification for the comments published in the impugned despatch on the ground of 'fair comment'. Nobody would deny the Press or as a matter of that, any citizen, the right of fair comment. But if the comments contain personal attacks on individual members of Parliament on account of their conduct in Parliament or if the language of the comments is vulgar or abusive, they cannot be deemed to come within the bounds of fair comment or justifiable criticism. Even the Press Commission (1954) held the view that 'comment couched in vulgar or abusive language is unfair.'² Nor can 'fair comment' be stretched to include irresponsible sensationalism. The scope of the freedom of Press has been described by the Supreme Court in its judgement in the Searchlight Case."
- (vi) "The Committee have considered carefully the meanings and the context in which, according to Shri Karanjia, the various phrases and words objected to by Shri Khushwaqt Rai, M.P., were used in the impugned despatch published in the *Blitz*, dated 15 April, 1961. The crux of the question, in the opinion of the Committee, is whether the said comments can reasonably be construed to come within the bounds of fair comment or justifiable criticism or whether they are in the nature of contemptuous insults, gross calumny, foul epithets or libellous reflections on a member of the House on account of his speech or conduct in Parliament."
- (vii) "It is well established that speeches and writings reflecting on the character and proceedings of the House or upon anyone of its members, for or relating to his speeches or conduct in the House constitute a breach of privilege and contempt of the House on the principle that such acts tend to obstruct the House and its members in the performance of their functions and duties by diminishing the respect due to them and by bringing them into odium, contempt and ridicule."³

(viii) "In the light of what has been stated above, the Committee have come to the conclusion that the impugned despatch read as a whole, including its heading and the photograph of Shri J.B. Kripalani, M.P., with the caption 'Kripaloony' underneath, in its tenor and content, libels Shri Kripalani and casts reflections on him on account of his speech and conduct in the House. The language of the despatch is such that it brings Shri Kripalani into odium, contempt and ridicule by referring to him in a contemptuous and insulting manner and by using foul epithets in respect of him.

The Committee are, therefore, of the view that the impugned despatch constitutes a breach of privilege and contempt of the House."

- (ix) "In the opinion of the Committee both Shri R. K. Karanjia, the Editor and Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*, under whose name the libellous despatch appeared in the *Blitz*, dated 15th April, 1961, are guilty of committing a gross breach of privilege and contempt of the House."
- (x) "The Committee regret that although they twice gave opportunities to Shri A. Raghavan to explain his position to the Committee both in writing and in person, he failed to submit a full and adequate explanation. In his first letter, dated 25 April, 1961, he simply stated that Shri R. K. Karanjia, as Editor had taken full responsibility for the publication of the impugned despatch. Even in his second letter, dated 5 May, 1961. Shri Raghavan neither disclosed to the Committee the text of the despatch communicated by him to his editor at Bombay, nor did he state specifically that the libellous expressions published in the *Blitz* were not contained in the original despatch communicated by him to his editor. In view of this and also in view of the fact that the impugned despatch appeared under Shri Raghavan's name in the *Blitz*, the Committee have come to the conclusion that Shri Raghavan cannot be absolved of his responsibility in the matter."
- (xi) "Having reached the conclusion that both Shri R.K. Karanjia and Shri A. Raghavan are guilty of a gross breach of privilege and contempt of

¹A.I.R. (1959) S.C. 395 at p. 402.

²Report of Press Commission (1954) pp. 340-41, para 914.

³*May's Parliamentary Practice*, 16th Ed., pp. 117, 120 and 124.

the House the Committee gave careful consideration to the question as to what course of action they should recommend to the House. In the opinion of the Committee the final responsibility or the publication of the impugned despatch rested with Shri R.K. Karanjia and therefore his offence is graver. This offence has been further aggravated by the type of explanation he has chosen to submit to the Committee. The Committee therefore recommend that he should be summoned to the Bar of the House and reprimanded.

As regards Shri A. Raghavan, the Committee feel that the ends of justice will be adequately met by awarding him a somewhat milder punishment. The Committee accordingly recommend that the Lok Sabha Press Gallery Card and the Central Hall Pass issued to him be cancelled and be not issued again till he tenders to the House a full and adequate apology."

Action taken by the House

7. On 18 August, 1961, Sardar Hukam Singh moved the following motion which was adopted by the House:—

"That the Thirteenth Report of the Committee of Privileges presented to the House on 11 August, 1961, be taken into consideration."

8. Sardar Hukam Singh then moved:

"That Shri R. K. Karanjia, Editor, *Blitz*, Bombay, do attend this House on a day and time, within a week of the adoption of this motion, to be fixed by the Speaker."

Sardar Hukam Singh added that his desire in moving this motion was to afford an opportunity to Shri Karanjia to appear before the House and make his submissions, if any, that he might desire to make to the House. Some other members had also tabled motions for agreeing or disagreeing with the Report

of the Committee. After some debate further consideration of the motion was postponed till the next day.

9. On 19 August, 1961, Sardar Hukam Singh requested for leave to withdraw the motion (See para 8 above) moved by him on the previous day. He said that he wished to withdraw the motion as there were differing views in the House on the motion. He also added that he had desired that the House give Shri Karanjia an opportunity to appear before the House as he thought that after the presentation of the Committee's Report to the House, Shri Karanjia might have changed his mind and might express his regret or tender an apology to the House. But, Sardar Hukam Singh added, from the manner in which the case had been reported and displayed in the latest issue of the *Blitz*, he felt that no useful purpose would be served by giving Shri Karanjia an opportunity to appear before the House. As some members objected to the leave being granted to withdraw the motion, the motion (See para 8 above) was put to vote and negatived.

10. Dr. Ram Subhag Singh then moved the following motion:—

"That this House agrees with the Thirteenth Report of the Committee of Privileges presented to the House on 11 August, 1961."

11. Shri K.T. K. Tangamani moved a motion disagreeing with the recommendations of the Committee and Shri Braj Raj Singh moved a motion disagreeing with the recommendation of the Committee in regard to the New Delhi Correspondent of the *Blitz*.

12. After some debate, the motion moved by Dr. Ram Subhag Singh (See para 10 above) was adopted and the motions moved by Sarvashri Tangamani and Braj Raj Singh were consequently, declared by the Speaker as barred. The Speaker also announced:

“ I will now take the necessary steps to summon Shri R.K. Karanjia to the Bar of the House to carry out the sentence pronounced upon him by the House. I will also cancel the Lok Sabha Press Gallery Card and the Central Hall Pass issued to Shri A. Raghavan, and the same will not be issued to him again till he tenders to the House a full and adequate apology.”

13. On the 21 August, 1961, the Speaker informed the House:

“I may inform the House that in pursuance of the decision of the House on 19 August, 1961 I have issued a summon to Shri R.K. Karanjia, Editor, *Blitz*, Bombay to appear in person to receive the reprimand at the Bar of the Lok Sabha on Tuesday, the 29th August, 1961 at 12.15 hours. I have also cancelled the Lok Sabha Press Gallery Card and the Central Hall Pass issued to Shri A. Raghavan, the New Delhi Correspondent of *Blitz*.”

SUMMONS TO RECEIVE—REPRIMAND

"WHEREAS the Committee of Privileges of Lok Sabha, in their Thirteenth Report presented to the Lok Sabha on the 11th August, 1961, in the matter of a despatch, published in the *Blitz*, dated the 15th April, 1961, were of opinion that both Shri R. K. Karanjia, the Editor and Shri A. Raghavan, the New Delhi Correspondent of the *Blitz*, were guilty of committing a gross breach of privilege and contempt of the House;

AND WHEREAS the Committee in their said Report recommended that Shri R.K. Karanjia "should be summoned to the Bar of the House and reprimanded."

AND WHEREAS the Lok Sabha has on the 19th August, 1961 adopted the following motion.

"That this House agrees with the Thirteenth Report of Committee of Privileges presented to the House on the 11th August, 1961;

NOW, therefore, in pursuance of the decision of the House, you, Shri R.K. Karanjia do hereby summoned to appear in person to receive the reprimand at the Bar of Lok Sabha in the Parliament House, New Delhi, on Tuesday, the 29th August, 1961 at 12.15 hours.

Herein fail not.

Given under my hand and seal at New Delhi, this 21st day of August, 1961.

Sd/- M. Ananthasayanam Ayyangar
Speaker, Lok Sabha.

New Delhi, dated the 21st August, 1961.

14. On the 24th August, 1961, the Speaker read out to the House the following telegram received from Shri R.K. Karanjia:

"Received summons. Request fortnight's extension for reasons stated in letter already sent. Respects."

15. On the 25th August, 1961, the Speaker informed the House in the afternoon that he had received the following letter dated the 23rd August, 1961, from Shri R.K. Karanjia:

Sir,

I am in receipt of the summon dated the 21st day of August 1961 issued by you, calling me to appear at the bar of the Lok Sabha on 29th August, 1961 at 12.15 hours.

I should have been happy to be able to respond immediately to your summons and appear at the Bar of the Lok Sabha as directed by you. However, I have been legally advised that irrespective of the personal consequences to me, I should make an application to the Supreme Court requesting the hon. Judges of the Supreme Court to reconsider the Judgement given by them in the Search Light case. As a consequence, an application is being filed by me in the Supreme Court today or tomorrow in this behalf.

Allow me to assure you that this application is being filed only with a view to getting a proper decision from the highest judicial tribunal of the land on questions of principles which affect the citizen as well as Lok Sabha equally. As I have stated before, I am completely in your hands and willing to take the consequences of the article published on 15th April, 1961 in BLITZ which to my great regret, has become the subject matter of the Privilege Committee's adverse report on me.

I therefore, pray that the date for my appearance in the Lok Sabha, be extended by a fortnight."

16. Sardar Hukam Singh stated that information had been received that Sarvashri Karanjia and Raghavan had since filed a writ petition in Supreme Court and that it would be taken up for preliminary hearing on the 28th August, 1961. He added that there should be some arrangement to represent the case in the Supreme Court on behalf of the House

and on behalf of the Speaker, as the Speaker, the Secretary and an Under Secretary had been made parties to the writ petition. He then moved the following motion which was adopted by the House:—

"That the Attorney General be instructed to arrange for appearance and representation on behalf of the Speaker, Secretary and Under-Secretary of Lok Sabha in the matter of the writ petition filed by Shri R.K. Karanjia and Shri A. Raghavan in the Supreme Court against the decisions made by this House on the 19th August, 1961 on the 13th Report of the Committee of Privileges presented to this House on the 11th August, 1961."

The House decided to consider the request of Shri Karanjia for extension of time on the 28th August, 1961.

17. The writ petition¹ of Sarvashri Karanjia and Raghavan, filed under Article 32 of the Constitution, came up for preliminary hearing before the Constitution Bench² of the Supreme Court, consisting of seven Judges on the 28th August, 1961. In the writ petition, the petitioners had prayed for reconsideration of the earlier decision of the Supreme Court in the Search Light case³. The Supreme Court, after hearing Shri N.C. Chatterjee the Advocate for the petitioner, and the Attorney General (Shri M.C. Setalvad) for the respondents, dismissed the petition.

The House considered the request of Shri Karanjia for extension of time in the afternoon of the 28th August, and decided not to grant him the extension in view of the fact that the ground on which he had asked for extension of time no longer existed.

18. On the 29th August, 1961 at 12.13 hours, the Speaker made the following observations:—

"The House is, of course, well aware that the moment we take up this matter we will, in a sense, be functioning as the High Court of Parliament. This will be a solemn occasion, and we do not deliberate then. It emphasises the authority and sovereignty of Parliament. I need hardly emphasise that when Shri Karanjia is being reprimanded, there should be pin-drop silence, so that the dignity and authority of this House is maintained and the significance of the

¹Writ Petition No. 221 of 1961.

²The Constitution Bench consisted of Justices S.K. Das, J.L. Kapur, A.K. Sarkar, K. Subbarao, M. Hidayatullah, N. Rajgopala, Ayyangar.

³A.I.R. 1959 S.C. 395.

reprimand and the solemnity of it is emphasised."

Immediately thereafter, at 12.15 hours, the Speaker asked the Watch and Ward Officer if Shri Karanjia was in attendance. The Watch and Ward Officer replied in the affirmative. The Speaker then directed the Watch and Ward Officer to bring him in. Shri Karanjia was then brought to the Bar of the House by the Watch and Ward Officer, where Shri Karanjia bowed to the Speaker. The Speaker then (seated in his Chair) reprimanded Shri Karanjia as follows:—

"R.K. Karanjia, the House has adjudged you guilty of committing a gross breach of privilege and contempt of the House for publishing in the issue dated the 15th April, 1961 of the *Blitz*, of which you are the editor, a libellous despatch under the heading, 'The Kripaloony Impeachment.' That despatch, in its tenor and content, libelled an honourable member of this House and cast reflections on him on account of his speech and conduct in the House and referred to him in a contemptuous and insulting manner. As editor, you had a high responsibility to exercise utmost caution and discretion in commenting on the speech and conduct of an honourable member of Parliament in his capacity as such member, yet you published words calculated to bring him into odium, contempt and ridicule. This offence of yours was further aggravated by the type of explanation you chose to submit to the Committee of Privileges.

In the name of the House, I accordingly reprimand you for committing a gross breach of privilege and contempt of the House.

I now direct you to withdraw."

Shri Karanjia then bowed to the Speaker and withdrew as directed.

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LOK SABHA
(1962)

Point of privilege

Casting reflections on a member on account of his speech and conduct in the House by a newspaper.

Facts of the case and action taken by the House

On the 23rd March, 1962, the Speaker (Shri M.A. Ayyangar) informed the House as follows:—

"The House will recall that I had informed the

House on 21 August, 1961, that I had cancelled the Lok Sabha Press Gallery Card and the Central Hall Pass issued to Shri A. Raghavan, the New Delhi Correspondent of the *Blitz* in pursuance of the decision of the House on 19 August, 1961, adopting the Thirteenth Report of the Committee of Privileges on the *Blitz* case, the Committee had recommended that:—

"The Lok Sabha Press Gallery Card and the Central Hall Pass issued to him be cancelled and be not issued again till he tenders to the House a full and adequate apology."

I have now received the following letter of apology, dated the 16th March, 1962, from Shri A. Raghavan:—

"On the 19th August 1961, Lok Sabha adopted a motion agreeing with the 13th Report of the Committee of Privileges presented to the House on the 11th August.

The Hon. Speaker and the House will be pleased to remember that the 13th Report of the Committee of privileges had recommended certain action against the Editor of *Blitz* News magazine, Bombay, and myself, its New Delhi Correspondent in connection with a despatch published in the issue of the said weekly dated 15 April, 1961 relating to a speech delivered in the House by Shri J.B. Kripalani on defence matters.

By the said Motion Lok Sabha had adjudged me guilty of a gross breach of privilege and contempt of the House.

Thereafter in compliance with the directive of the Hon. Speaker, I surrendered my Lok Sabha Press Gallery pass and the Central Hall entry permit.

I take this opportunity to inform the House that I am extremely sorry that I have committed a breach of privilege for which I hereby tender my apology.

May I in conclusion, venture to request Lok Sabha through you, Sir, to take lenient view and restore my Press gallery pass and the Central Hall entry permit."

2. The Speaker then asked the pleasure of the House whether Shri Raghavan's apology might be accepted and the Press Gallery Card and the Central Hall Pass be restored to him. On the House signifying assent, the Speaker observed:

"The apology is accepted and the passes will be issued accordingly."

428

LOK SABHA
(1963)

Point of privilege

Alleged reflections on members by a member in his statement in the House

Facts of the case and action taken by the House

On the 20th August, 1963, Shri P.K. Deo, a member sought to raise a question of privilege of the ground that Shri K.D. Malaviya, another member, while making a statement in explanation of his resignation as a Minister, had cast reflections on members by stating:—

"I offered my resignation at the earliest stage when false and mischievous allegations were first made."

Shri P.K. Deo said that it was he and Shri Hem Barua, another member, who had made allegations against Shri K.D. Malaviya, while taking part in the debate on the Demands of the Ministry of Mines and Fuel. Shri Deo contended that the allegations made by the members could not be called false and mischievous because immediately after Shri K.D. Malaviya's statement, the Prime Minister made a statement admitting that on two points the findings of Justice S.K. Das were unfavourable to Shri K.D. Malaviya.

2. The Minister of Law (Shri A.K. Sen) stated that the words complained of did not refer to any member. All that could have happened at the time Shri Malaviya made that statement was to attract the Speaker's intervention under Rule 352 of the Rules of Procedure. He did not think that this was a matter of privilege.

3. Shri K.D. Malaviya explained:—

"I wish to state here that at the earliest stage when certain allegations were communicated to me formally by the Home Ministry, at that stage, at that point of time the first thing that I did was to offer my resignation so the offer of my resignation was directly connected with the formal communication of certain allegations that were made against me which, I hold even today, are mischievous and false. I have never had in my mind the specific reference that was made in this House by any member of the Lok Sabha."

4. In view of Shri Malaviya's statement, Shri P.K. Deo withdrew his question of privilege and the matter was treated as closed.

429

LOK SABHA
(1966)

Point of privilege

Casting reflections upon the Speaker and members of a Parliamentary Committee

Facts of the case and reference to Committee of Privileges

On the 4th March, 1966, the Speaker (Sardar Hukam Singh) informed the House that he had received notice of a question of privilege from Sarvashri N.G. Ranga, Kapur Singh, Yashpal Singh and other members in respect of certain passage occurring in a brochure titled "Punjab at Cross Roads", written and published by one Shri H.L. Sally, of Chandigarh, wherein Shri Sally had cast reflections on the Speaker and members of the Parliamentary Committee on the demand for Punjabi Suba. The passage to which objection was taken, was as follows:—

"A PARTISAN CHAIRMAN"

The Central leaders raked up the settled question of the so-called Punjabi Suba to appease the Sikhs in a weak moment when they did not want to annoy anybody in view of Pakistani aggression. They made a further mistake in leaving appointment of members of the Parliamentary Committee to a confirmed Akali who was to preside over their deliberations. He may have acquitted himself well in dealing with different parties in the Indian Parliament. It was too much to expect that his natural pro-Akali bias would change. A High Court Judge can dispose of thousands of cases in a most impartial spirit but he will refuse to preside over a case in which his personal feelings are involved or regarding which he has recorded his personal opinion at an earlier stage. But Sardar Hukam Singh belied his exalted position as Speaker of the Parliament by accepting this offer. He was probably happy to get this opportunity to serve his community. Naturally enough he selected such men for membership on whom he could depend for support. The first proof of his natural inclinations getting the better of him can be seen in his going beyond the terms of

reference. according to his appointment order he was to submit his recommendations to the Cabinet Sub-Committee. But he wants to get his recommendations confirmed and backed by the Parliament over which he himself presides. In this way he seeks to make his recommendations mandatory on the Cabinet. The Government should have nominated some natural members on the Parliamentary Committee and permitted them to elect their Chairman. By acting as they did, they have only added to their difficulties.

2. The House referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

3. The Committee of Privileges, after considering Shri Sally's written statement and examining him in person in their Fifth Report, presented to the House on the 30th April, 1966, reported *inter-alia* as follows:—

- (i) "It is well-established that speeches or writings reflecting upon the character of the Speaker and accusations of Partiality in the discharge of his duty or casting reflections upon any member of the House for or relating to his service therein or concerning the character or conduct of the member in that capacity, constitute a breach of privilege and contempt of the House on the principle that such acts tend to obstruct the House and its members in the performance of their functions and duties by diminishing the respect due to them and by bringing them into odium, contempt and ridicule."
- (ii) "The Committee are of the opinion that the impugned passage.... constitutes a breach of privilege and contempt of the House, as it casts reflections of the character and conduct of the Speaker in the discharge of his duty and also upon the members of the Parliamentary Committee on the Demand for Punjabi Suba."
- (iii) "The Committee are therefore, of the view that Shri H.L. Sally has committed a breach of privilege and contempt of the House."
- (iv) "Shri H.L. Sally, however, in his letter dated 6 April, 1966, has tendered full and unqualified apology to the Speaker, the members of the Parliamentary Committee on the Demand for Punjabi Suba and the House in the following terms:—

"In my statement on the subject submitted on 30-3-1966, I had expressed genuine regrets over

certain observations made by me. Further, I, hereby, tender full and unqualified apology both to the Speaker and the members of the Parliamentary Committee on the Demand for Punjabi Suba [and the House (Lok Sabha)]¹."

- (v) "Shri H.L. Sally, in the course of his oral evidence given before the Committee, admitted that he had not realised before that, the Speaker was functioning as the Chairman of the Parliamentary Committee on the Demand for Punjabi Suba in his capacity as Speaker and that his action in criticising the Speaker and members of the said Committee was not correct. He submitted that he bowed to the judgement of the Committee and and apologised for his action."
- (vi) "The Committee are satisfied that the apology tendered by Shri H.L. Sally is full and unqualified."
- (vii) "The Committee recommend that in view of the full and unqualified apology tendered by Shri H.L. Sally, no further action be taken by the House in the matter."

4. Sardar Kapur Singh a member of the Committee, in his separate Note disagreed with the recommendations of the Committee and suggested that Shri Sally should be severely reprimanded at the Bar of the House for the breach of privilege and contempt of the House committed by him.

The Committee also appended their Note on Sardar Kapur Singh's Note.

Action taken by the House

5. On the 17th May, 1966, Sardar Kapur Singh moved:—

"That the Fifth Report of the Committee of Privileges presented to the House on the 30th April, 1966 be taken into consideration."

After some discussion, the motion was adopted by the House.

¹These words were added by Shri Sally when he appeared before the Committee on 7 April, 1977.

6. Thereafter, the following motion was moved by Shri S.V. Krishnamoorthy Rao (Deputy Speaker and Chairman of the Committee of Privileges) and adopted by the House:—

“That this House agrees with the Fifth Report of the Committee of Privileges presented to the House on the 30th April, 1966.”

430

LOK SABHA

(1966)

Point of privilege

Alleged contempt of the House by a newspaper.

Facts of the case and reference to the Committee of Privileges

On the 7th May, 1966, Shri N. Sreekantan Nair, a member, gave a notice of a question of privilege against the *Manorma* (A Malayalam language newspaper) in respect of an editorial article published in its issue, dated the 19th April, 1966 regarding Statutory Resolution on the Kerala University (Amendment) Act, 1966. The article read as follows:—

“It is a matter of great regret that in the set-up and in the administrative/scheme of the Kerala University, some unfortunate procedures are being created. If, in the conduct of an exalted and ideal institution like the University, steps which appear to be childish are adopted, it would sully not only the reputation of the University, but also the good name of the State. These procedures are such as to make competent persons hesitate to take up the Vice-Chancellorship of the University.

The amendment moved by the Opposition, to the effect that the three-year term of the present Vice-Chancellor, Prof. Samuel Mathai be reduced to one year, was accepted by the Education Minister, Shri Chagla and by the ruling party. The acceptance of the amendment has to be viewed as an extraordinary experience from the side of the Government. We cannot congratulate the Government and the ruling party on this issue, as if it were the adoption of a properly ripe and just attitude.

It was in an extraordinary situation that the Amendment Act of 1966 had to be passed. The existing course of action in the University is to appoint a three men Committee, to nominate the new Vice-Chancellor, before the expiry of the term of office of the Vice-Chancellor. On

that basis, the three-men Committee could not agree to submit an agreed name to the Governor, who is the Chancellor, nor could they submit a panel of three names from which the Governor could select one. It was when the urgent need to appoint another person in place of Prof. Mathai, whose term had come to a close, arose that the Governor, Shri Jain, used his Emergency Powers and took steps to extend the period of service of Shri Mathai.

This appointment was confirmed only after the University Amendment Act, 1966 was passed. It can only be said to be unfortunate that the self-same Parliament, which passed the enactment should accept an amendment, tabled by the Opposition, which would bring discredit to a respectable person, who has been appointed to an exalted position.

After passing an enactment and making an appointment on that basis, if Parliament wants, on reasonable grounds, to amend, it, we can understand such a correction to effect future appointments being made. But that is not what has happened here. To cancel an appointment made on the basis of an enactment is a step of doing injustice to the respectable person who accepted that post. The doubt arises as to whether it is in keeping with the high responsibilities of the Parliament to create highly objectionable precedents of this nature. What has been achieved by the amendment is to establish that no one can believe in the Government and accept a post of responsibility.

Mr. Sreekantan Nair, who moved the Amendment in Parliament stated, that the Kerala University has become the seat of nepotism and corruption. This is a very serious allegation. If Shri Samuel Mathai has any responsibility for this degeneration, it is wrong to continue him for one year, even for one month. It has not been heard that the good name which Shri Mathai has earned as Professor and as Secretary of the University Grants Commission, has been lost during the three years of his office as Vice-Chancellor. That his term was extended for three years more, should be considered the evidence of the trust, the Government had in him. If, three months after the new appointment, the restraining hand should be applied to the term of his office, the reasons that justify that action, must be proved.

Anyhow, Government and Parliament have adopted this unusual course of action on the basis of unspecified reasons. Parliament has the right and the power to amend any law. It is also the duty of the Parliament to see that. While doing so, individuals do not suffer injustice. The question is not whether Shri Samuel Mathai, should or should not continue as Vice-Chancellor. What disturbs us is that it did not come to the notice of the Parliament, that such actions create much anxiety among the people."

In his notice, Shri Sreekantan Nair also complained about the contents of letter, dated the 2nd May, 1966, received by him from the managing Editor of the *Manorma*, in reply to his letter in which he had asked the Editor to publish a detailed statement prominently in order to remove misunderstanding created among the public by the Editorial.

2. On the 18th May, 1966, the Speaker referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee.

3. The Committee of Privileges in their Ninth Report, presented to the House on the 22nd August, 1966, reported *inter alia* as follows:—

(i) "The Committee have carefully gone through the translation of the impugned editorial article furnished by Shri N. Sreekantan Nair, his statement as set forth in his notice of question of privilege to the Speaker and the letter of the Editor of the *Manorma* to Shri N. Sreekantan Nair."

(ii) "The Committee are of the opinion that no breach of privilege is involved in the matter."

(iii) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

4. No further action was taken by the House in the matter.

431
LOK SABHA
(1966)

Point of privilege

Referring to members of Opposition as 'rowdies' and 'goondas' by a newspaper.

Facts of the case and action taken by the House

On the 5th August, 1966, the Speaker (S. Hukam Singh) informed the House that on the 29th July, 1966, he had received notice of a question of

privilege from Shri R. Umanath, M.P., against the *Navasakthi*, a Tamil daily of Madras for having referred to the members of Opposition Parties of Lok Sabha as 'rowdies' and 'goondas' while reporting the opening day proceedings in its issue dated the 26th July, 1966.

2. The Speaker added that he called for the explanation of the Editor of the newspaper and the Editor in his letter, dated the 2nd August, 1966, had replied as follows:—

"We wish to state that the unruly scenes that were witnessed on the opening day of the Lok Sabha and Rajya Sabha were described as 'rowdy scenes' by the PTI. A copy of the PTI report is herewith enclosed for your reference. What we have published is translation of the PTI report. But, we find that our staff have committed some mistakes in the translation of the English news into Tamil.

We sincerely regret for the same.

As a National Daily we assure you that we have the utmost respect and regard for our Parliament and it was never our intention to show any discourtesy to any member of the august body."

3. The Speaker observed that in view of the regret expressed by the Editor, the matter might be treated as closed.

4. Shri Umanath thereupon stated that he had gone through the whole of PTI report but there was no portion therein where there was a reference to the members of Opposition behaving as 'rowdies' or reference to 'Goondaism' and therefore the explanation of the Editor that it was just a mistake in translation on the part of the staff was not correct.

5. The House then agreed to close the matter if the Editor published the apology on the front page of the newspaper in its three successive issues.

6. On the 23rd August, 1966, the Speaker informed the House that the Editor of '*Navasakthi*' had published his explanation and regret on the front page of three successive issues of the newspaper dated the 10th, 11th and 12th August, 1966.

The matter was then closed.

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LOK SABHA
(1966)

Point of privilege

Alleged contempt of the House and of a Parliamentary Committee by certain statements made by a Minister in the House and before the Committee.

Facts of the case and ruling by the Speaker

On the 16th August, 1966, Sarvashri Madhu Limaye & Homi F. Daji, members, sought to raise a question of privilege against Shri C. Subramaniam, the Minister of Food & Agriculture, on the ground that he had suppressed the truth and misled the Public Accounts Committee, when he appeared before them, by stating that certain order issued by him was 'draft' order when in fact it was a final one and also that, while commenting on the observations of the Public Accounts Committee in his personal statement in the House on the 18th May, 1966, he had cast reflections on the Committee by stating that:—

"It is rather surprising that an observation should have been made suggesting that I had reconsidered certain order without adequate reason".

2. On the 17th August 1966, the Speaker (S. Hukam Singh) observed *inter alia* as follows:—

"So far as this privilege is concerned, it is of the utmost importance that the notice must be given immediately, at the very first opportunity; a delay of one day or two days has been held to be fatal to the entertainment of any notice of breach of privilege. Many things that have been said here arose out of the observations made by the Public Accounts Committee in their 50th Report which was presented to the House in May, so far as I remember. Then there were the statements of the Minister on 17th and 18th May.

Incorrect statements made by a Minister cannot make any basis for a breach of privilege. It is only a deliberate lie, if it can be substantiated, that would certainly bring the offence within the meaning of a breach of privilege. Other lapses, other mistakes do not come under this category, because everyday we find that Ministers make their statements; in which they make mistakes and which they correct afterwards.....I have said about the incorrect statement; that was contradicted on 18th May and an apology was

also offered. So far as abusing the right to make personal explanations is concerned, there is nothing to show that the right had been abused or that facts have been suppressed. There was no question of misleading the Committee, so far as that is concerned—that is the statement on the 18th. It was said that he cast reflections on the PAC by saying 'it is rather surprising'. I agree that it was unfortunate that such words, "that it was surprising" should have been used. I also agree that there is force in that. But does it constitute a breach of privilege? I have not come to that conclusion that it does. Therefore, I have not been able to hold that, though I do say that no Member, when the PAC or any other committee of the House has given a report, should say such words. It might cast reflections on their decisions. These reports are to be accepted as they are. Then alone we can proceed with satisfaction.....The other serious thing....about what he called the draft order while the order was absolute, precise and had to be carried out. He tried to explain what he had meant by that.....I am not very much convinced with that explanation, though he might have just laboured hard to 'explain that away'. That was a mistake that was committed, and he ought to have admitted it frankly there and then that it was a mistake, because that was an order that was to be carried out and left nothing further to be stated, unless of course the Minister himself feels otherwise. Therefore, that was an order. But there could be difference of opinion. He calls it a draft order. He has admitted his mistake in the House as well as before the Committee and has also said that the conclusions of the Committee under the circumstances were justified. He has gone to that extent, and I do not hold that this also constitutes a breach of privilege.

I, therefore, do not give my consent."

433
LOK SABHA
(1966)

Point of privilege

Alleged reflections on a member by a newspaper.

Facts of the case and reference to the Committee of Privileges

The *Statesman* in its issue dated the 10th August, 1966 published a news-report under the heading 'Sabotage Plans by C.P.I. Claimed' from its Political

Correspondent, who attributed his source of information to the Union Home Ministry. The news-report in question had alleged that "The Union Home Ministry seems convinced that the Left Communist Party had formulated plans for country-wide sabotage both on agricultural and industrial fronts".

2. On the 11th August, 1966, the Minister of Home Affairs (Shri G.L. Nanda) in his statement in the Lok Sabha denied that the source of information of the said news-report was the Ministry of Home Affairs.

3. On the 24th August, 1966, Shri Madhu Limaye, M.P. and others sought to raise a question of privilege in the House against the Minister of Home Affairs on the ground that he had made a misleading and untruthful statement in the House in the 11th August, 1966 in denying that the relevant news-report had been based on the information passed on by the Ministry of Home Affairs. The member alleged that the Ministry of Home Affairs had asked the Editor, *Statesman*, to issue a contradiction to the news-report but the Editor had agreed to publish the contradiction on the condition that below the letter of the Ministry, the *Statesman* would publish its own statement also to the effect that in spite of that contradiction, the Special Correspondent maintained his position and thereupon, Minister of Home Affairs gave up his insistence for the publication of the contradiction. Shri Madhu Limaye also referred to the news item published in the Hindi *Dinman*, dated the 19th August, 1966 that according to the informed sources, the news-report of the *Statesman* was conveyed to the Press by a Minister in the Ministry of Home Affairs.

4. Shri G.L. Nanda, Minister of Home Affairs, then stated *inter alia* as follows:—

"I find now that this question of privilege is raised on the assumption that what I said here was not correct and that I knew that it was not true when I made the statement. I can say with all the emphasis at my command and the deepest earnestness and sincerity before this August House that when I made that statement on the occasion I knew that it was correct, and I made it without any kind of reservation in my mind that it was not correct; it was true to my knowledge. I further maintain now that I am prepared to reiterate it here. I stand by it. What I said then was correct then, it is correct now, to the best of my knowledge and I have

no reason to disbelieve whatever I had said then.

* * * *

When I made that statement, I will just now add, I had shown it to everybody concerned in my Ministry, including Shri Shukla, Shri Hathi and everybody. Then, again, I questioned closely everybody. Therefore, I was quite satisfied that what I was saying was correct."

5. The Speaker, thereupon disallowed the question of privilege against the Minister of Home Affairs on the ground that it had not been proved that at the time of making the statement, the Home Minister knew that the information had been passed from the Ministry of Home Affairs or having that knowledge, the Minister had made the statement different from it.

6. On the 31st August, 1966, Sarvashri Madhu Limaye and H. V. Kamath raised a question of privilege in the House against the Editor of the *Statesman*, in respect of an editorial captioned 'Home Truth', published in its issue dated the 26th August, 1966. The Editor in his editorial had stated *inter alia* as follows:—

"We presume Mr. Nanda is fully aware of the source from which the story came to us and of the circumstances in which his Ministry agreed that the contradiction it had earlier sent to us need not be published."

7. While raising the question of privilege, Shri Madhu Limaye said that the Editor of the *Statesman* had committed "the grave offence of not only editorially reiterating the charge but saying that Shri Nanda (The Minister of Home Affairs) was 'fully aware' of the source and was therefore lying, and further suggesting that it is not the *Statesman* which needed to 'vindicate its position' but the other party i.e., the Home Minister." Shri Kamath contended that in view of the clear denial by the Home Minister about the source of the news-report the *Statesman* in its issue of August 26 had insinuated that the Home Minister had wilfully and deliberately suppressed the source of news-report which appeared earlier in that paper and thereby held an untruth to, and misled the House, Shri Kamath urged that the matter be referred to the Committee of Privileges.

8. The House, thereafter, referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

9. The Committee of Privileges, after considering the written statement submitted by the Acting Editor of the *Statesman* and after examining the Acting Editor and the Political Correspondent of the *Statesman* in person in their Thirteenth Report presented to the House on the 1st December, 1966, reported *inter alia* as follows:—

- (i) "The Acting Editor of the *Statesman*, in his written statement has stated that the insinuation attributed to the *Statesman*; is not justified and is not borne out by the facts. He has contended that the editorial published in the *Statesman*, dated the 26th August, 1966 does not in any way attribute *mala-fide* to Shri Nanda, nor is its language even remotely excessive or 'un-parliamentary'. In this connection, the Acting Editor of the *Statesman* has stated:

"We submit that in moving his motion of privilege on August 31, Shri Kamath read more into the divergence between Shri Nanda and ourselves than is warranted by the facts or the language of our editorial."

Still more unjustified and further removed from facts is the nature of the insinuation attributed to us by Shri Kamath 'that the Home Minister has wilfully and deliberately suppressed the source of the news-report which appeared earlier in that paper (The *Statesman*) and thereby held an untruth to, and misled, the House.....' Shri Nanda could be said to have misled the House deliberately if he had held back what he believed to be true. We have nowhere alleged or implied that he did so. Was made him aware that our source was the Home Ministry. But he is under no obligation to believe us just as we are free to believe him or not. If a person gives out some information but denies this fact to his superior, the latter is free to decide whether to believe his subordinate or the newspaper. But his purely personal predilections in this matter cannot be made the basis of an issue of breach of his privileges as a Member of Parliament, such as has been alleged by Shri Kamath:

We were correct in presuming, on the basis of what we had told him, that we had made him

aware of our source—though we did not assume nor did we have the right to, that we had necessarily carried conviction with him.

At no stage, by assertion or insinuation, have we attributed *mala-fide* to Shri Nanda or even suspected him of it....

On the basis of assurances received from his staff, Mr. Nanda may sincerely hold the impression that our description of the source is wrong. We have not in any way questioned his sincerity—though his impression is erroneous—and for this reason some of the expressions used by Shri Kamath are entirely unjustified. It is in no way a breach of a member's privileges if a newspaper, relying upon its own sources believes its own version of certain events and declines to endorse the version upon which a Minister, relying upon his sources, insists.

In spite of what Shri Kamath suggested, the essence of the divergence between the Home Minister and the *Statesman* is that each has received information which is in conflict with the other's and each insists in all sincerity that its own is more correct."

- (ii) "After considering the matter carefully, the Committee are of the opinion that the impugned editorial published in the *Statesman* dated 26 August, 1966, does not cast any reflection or attribute any *mala-fides* to Shri G. L. Nanda in his conduct as a Member of Parliament. In the opinion of the Committee, the said editorial did not imply that Shri Nanda was 'lying' or that he had 'wilfully and deliberately suppressed the source of the news-report'. The presumption made in the editorial that Mr. Nanda is fully aware of the source from which the story came to us and of the circumstances in which his Ministry agreed that the contradiction it had earlier sent to us need not be published was based, according to the Acting Editor's written statement, on the following facts:—

- (i) 'It was correct for us to presume that the Information Officer of the Home Ministry had conveyed to Mr. Nanda the purport of his exchanges over the telephone and in writing

with the Resident Editor of the *Statesman*, New Delhi, in the course of which it was agreed that the Ministry's letter of denial need not be published.'

- (ii) 'Similarly, it was known to us at the time, and to Parliament subsequently that our Political Correspondent.....had met the Home Minister in response to a telephone call from the latter; the two had gone into the question of the source of our story and our Political Correspondent had assured Mr. Nanda that the source was within the Home Ministry'."
- (iii) "The Acting Editor has, however, stated that in making the above presumption, viz., that 'Mr. Nanda is fully aware of the source', the *Statesman* had 'in no way questioned his sincerity' and that 'on the basis of assurances received from his staff, Mr. Nanda may sincerely hold the impression that our description of the source is wrong'."
- (iv) "The Committee are of the view that both Shri G. L. Nanda as well as the *Statesman* were entitled to believe and state their respective versions of the facts and the divergence between the two versions need not lead one to the conclusion that one or the other party must be lying."
- (v) "The Committee have reached the conclusion that no breach of privilege or contempt of the House is involved in the publication of the editorial captioned 'Home Truth', in the *Statesman* of the 26th August, 1966."
- (vi) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

10. No further action was taken by the House in the matter.

434

LOK SABHA (1966)

Point of privilege

Alleged casting of aspersions on Lok Sabha, its members and the Speaker by a newspaper.

Facts of the case and reference to the Committee of Privileges

On the 25th August, 1966, Shri Prakash Vir Shastri, a member raised a question of privilege against the Editor, Printer and Publisher of *Aina*, an

Urdu newspaper of Srinagar, for publishing an editorial article under the caption 'Yeh Naheen Hoga', in its issue dated the 15th August, 1966, allegedly casting aspersions on the Lok Sabha, its members and the Speaker. Shri Prakash Vir Shastri took objection to the following passages of the impugned article:—

".....not only the Parliament but also the most honoured citizen of the country, Sardar-Hukam Singh (Speaker) gave his ruling that in any case he was of the opinion that inclusion of such documents in the curriculum has adverse effect on the minds of children.....

We have great regard for the hon. members of Parliament and also appreciate their sensitiveness for the Integrity, sovereignty and prestige of the country. But we are not at all prepared to give them this right that they should misuse their rights and try to deprive others of their rights. Many of the members before giving vent to their pent up feelings, might not have even once gone through the text of '*Naya Kashmir*'. We may tell those members who have demonstrated their anguish and wrath after reading this book, that not to speak of one Parliament but thousands of such Parliaments cannot be successful in distorting history.....We want to make it clear to those who, intoxicated with power and position, consider Kashmir as their own estate, that they are striking at the very roots of identical ideology which form the basis of relations between India and Kashmir. Every step that they take is misdirected. They are committing an unpardonable crime of creating a gulf between India and Kashmir. Shri Kashi Ram Gupta, Sardar Hukam Singh, Prakash Vir Shastri and Bhagwat Jha are hardly aware of what does '*Naya Kashmir*' mean.....If today Shri Nanda declares it to be an obsolete historical document and ignores it, then there remains no common link between India and Kashmir. We fully understand that the commotion in Parliament is a feverish outburst of the narrow minded and trouble-mongering nationalism which has eaten into the very vitals of the country..... Sardar Hukam Singh, Shri Prakash Vir Shastri, Shri Hem Barua and Shri Kashi Ram Gupta can tolerate all this but cannot tolerate the mention of the freedom struggle and the feelings of the local people in the text books of Kashmir.....Our new

generation cannot remain ignorant like some members of Parliament.....

Thus, the revolution in 'Red China' is the most important unforgettable and historic event of this century. How is it possible that in order to avenge the injustices of the Chinese rulers. We should keep our new generation ignorant about this important revolution. By doing so we would be taking revenge not from the Chinese leaders but from our own youngmen....."

2. The matter was referred to the Committee of Privileges.

Findings and recommendations of the Committee

3. The Committee of Privileges, after examining Shri Prakash Vir Shastri in person and after considering the written statements submitted by the Editor, Printer and Publisher of *Aina*, in their Fourteenth Report presented to the House on the 2nd December 1966, reported *inter alia* as follows:—

"The Committee are of the opinion that the impugned editorial article read as a whole does not constitute a breach of privilege and contempt of the House, though certain portions of it are couched in a rather strong undesirable and irresponsible language which is unbecoming of a responsible newspaper. The matter does not, however, deserve any further notice.

The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

4. No further action was taken by the House in the matter.

435

LOK SABHA
(1967)

Point of privilege

Alleged misrepresentation of a member's speech and thereby casting reflections on another member by a newspaper.

For details of the case please see summary No. 293 at p. 451 ante.

436

LOK SABHA
(1967)

Point of privilege

Reflections on the conduct of members and proceedings of Parliament by a newspaper.

Facts of the case and reference to the Committee of privileges

On the 5th June, 1967, Shri Madhu Limaye, a member, raised a question of privilege against the Editor of "*Hindustan*", a Hindi Daily, on the ground that certain passages of the editorial captioned "*Niradhar, Anargal Wa Anuchit*", published in its issue dated the 2nd June, 1967, cast reflections on the conduct of members and proceedings of both Houses of Parliament. The English translation of the caption and the passages in Hindi, complained as objectionable, was as follows:

"Baseless, Meaningless and Improper

- (i) The baseless charges levelled in Rajya Sabha for full twelve hours using the illogical and undesirable medium of Hazari Report and violating all democratic proprieties, are devoid of facts according to the measuring rod of Government and that Government do not deem it necessary to consider them.
- (ii) But it is unfortunate that certain members of Parliament did not view the Report from its basic objective and rather used it only as a means to seek individual and party publicity or to disrepute a particular establishment and a particular person.
- (iii) The uproar created in Parliament based on such unscientific, unauthentic and audacious Hazari Report and the awe that was created against Birla Empire after the fashion of a missionary, crusader and religious zealot, and the crookedness, cowardice and *mala-fide* which is at the root of this courage, has perhaps never been exhibited in Parliament ever before.
- (iv) The forum of Parliament is the supreme, final and most responsible forum for national discussion and for evaluating varied developments in the country. The right to speak from this forum is bestowed by the people only on those representatives of the people who have public good uppermost in their minds and are capable of expressing their opinion consistent with the fullest national devotion and responsibility.
- (v) The question is whether the absurdity, venom, character assassination and thoughtlessness which was given vent to on the floor of Parliament by making Hazari Report as the basis therefor was in accordance with the

dignity of Parliament and its members?

- (vi) Should this view-point be termed as a prejudiced view or should it be termed as a partisan view or again should it be looked upon as a mark of helplessness arising out of setting one's own house on fire—we are at a loss to determine."

This, Shri Limaye felt, constituted a breach of privilege and contempt of the House.

2. After some discussion, the matter was referred to the Committee of Privileges for report on a motion moved by Shri Madhu Limaye.

Findings and recommendations of the Committee

3. The Committee of Privileges, in their Second Report presented to the House on the 19th July, 1967, reported *inter alia* as follows:

- (i) "After careful examination of the contents, tone and tenor of the impugned editorial published in the *Hindustan*, dated the 2nd June, 1967, the Committee are of the view that the said editorial contains reflections on the character and proceedings of the Parliament and on the conduct of its members as such and tends to bring the Parliament into disrespect and disrepute, which amounts to a breach of privilege and contempt of the House."
- (ii) "The Editor of the *Hindustan* has, however, expressed his 'deep and unqualified regret for any offence caused to the House or any hon. member thereof.' In his letter of apology dated the 28th June, 1967, the Editor has stated:—
'May I, at the outset, submit that it was not the intention of the author of the editorial to offer any indignity or odium to the august House. At any rate, without going into any other aspect of the matter, I express my deep and unqualified regret for any offence caused to the House or any hon'ble member thereof. I hope that the Committee as well as the House would accept this expression of regret and would accordingly discharge the notice'."
- (iii) "The Committee are of the opinion that in view of the unqualified expression of regret by the Editor of the *Hindustan*, no further action need be taken in the matter."
- (iv) "The Committee recommend that the expression of regret by the Editor of the *Hindustan* be accepted and no further action be taken by the House in the matter."

Action taken by the House

4. On the 31st July, 1967, Shri Madhu Limaye, moved for consideration of the Report and also moved the following amendment:

"That the Second Report of the Committee of Privileges be referred back to the Committee and the Committee requested to examine the circumstances leading to this breach of privilege of the House."

The Deputy Speaker, who was in the Chair ruled the amendment out of order on the ground that the enquiry of the nature propounded by Shri Limaye was outside the functions of the Committee of Privileges.

5. After the adoption of the consideration motion, the Minister of Parliamentary Affairs (Dr. Ram Subag Singh) moved and the House adopted, the following motion:—

"That this House agrees with the Second Report of the Committee of Privileges presented to the House on the 19th July, 1967."

437 LOK SABHA (1967)

Point of privilege

Alleged reflections on the conduct of a member by a member of the other House.

Facts of the case and ruling by the Speaker

On the 6th June, 1967, the Speaker informed the House that he had received notice a question of privilege from Shri Sant Bux Singh, Dr. Ram Manohar Lohia and Shri Rabi Ray, members, on the following allegations made by Shri Sheel Bhadra Yajee, a member of Rajya Sabha, on the 30th May, 1967, during the course of a debate in Rajya Sabha:

"When the Report of the Vivian Bose Commission was being discussed even though there were 750 members of Parliament, Sahu Jain did not find a single member to lament, and Dr. Ram Manohar Lohia had to take Rupees one Lakh and on receiving that amount, his signatures were taken."

2. The Speaker (Dr. N. Sanjiva Reddy) then observed:

"Shri Sant Bux Singh gave me notice yesterday; we did discuss about it. I

discussed it with Mr. Joshi and Mr. Rabi Ray also today. Looking to the rules and procedures not only in this Parliament but in other Parliaments also, I feel that the other House being equally sovereign it is not proper for us to refer the matter to a Privileges Committee here. I would only say that it is unfortunate that members make allegations against the members of the other House—Rajya Sabha members saying against Lok Sabha members and Lok Sabha members saying against Rajya Sabha members—or members make unsubstantiated allegations against each other in this House.

Therefore, I am not allowing the privilege motions to be referred to the Committee of Privileges”

3. Again, on the 26th June, 1967, Shri Madhu Limaye, another member, sought to raise a question of privilege on the same allegation.

Shri Madhu Limaye contended that the allegation was untrue and had not been substantiated. This he felt, constituted a breach of privilege and contempt of the House and requested that the matter be referred to the Chairman, Rajya Sabha, for appropriate action.

Ruling by the Speaker

4. The Speaker disallowing the question of privilege, observed as follows:

“This matter was first raised by Shri Sant Bux Singh, a fortnight ago and I thought I could convince him that the privilege of that House is as much sacrosanct as the privilege of this House. Then, myself and Shri Fernandes discussed this matter in the Chamber a number of times. I tried to give as much chance as possible to members, either on the Congress side or on the opposition to convince me or get themselves convinced by me about this point. As I said, Shri Fernandes did discuss it with me two or three times with the assistance of the Secretary and also of all groups here. The point now is, this House could take notice of it if the speech had been made, as in the case of Shri Arjun Arora, outside the House. In the British Parliament also, the case to which Shri Limaye referred, a member of the House of Lords made the speech

outside the House. Therefore, the Parliament could take note of it. Here the position is a little different. An hon. member of Rajya Sabha made a speech on the floor of that House. The person against whom he made the allegations is an hon. member of this House. The point was raised by that House itself that it should be referred to the Privileges Committee. That House took notice of it. It is not as though they did not take notice of it at all. Then the Chairman said that he would look into the matter, he called the member who made the allegation, directed him to produce evidence and when that hon. member of the other House could not produce satisfactory evidence to the satisfaction of the Chairman, he said that there was absolutely nothing, the allegation was not proper.

I disallow it because the Chairman has already given a decision and I do not want to refer it to the same Chairman to take it up again.”

438 LOK SABHA (1967)

Point of privilege

Reflections on the conduct of members and proceedings of Parliament by a newspaper.

Facts of the case and reference to the Committee of Privileges

On the 7th June, 1967, Shri Madhu Limaye, a member, raised a question of privilege against the Editor, Columnist and Proprietor of the *Hindustan Times* on the ground that the following passages of the articles captioned “Shades of the Star Chamber”, published in its issue dated the 4th June, 1967, cast reflections on the conduct of members and proceedings of both Houses of Parliament:

- (i) “But this is precisely what it amounts to if we are to take with any seriousness the wild charges which have been flung in Parliament against the Birlas.”
- (ii) “The question that now arises is how far can we go in allowing Parliament to behave like some kind of a Star Chamber sitting in judgment on individuals and institutions who

have no means of defending themselves without undermining democracy itself."

- (iii) "There are a hundred ways in which malfactors can be brought to book—even if they happen to be Birlas—but there are not many remedies against those who use the freedom of an open democratic society for the express purpose of subverting it."
- (iv) "Restraining members of Parliament is more difficult but while privilege may continue to apply to what is said in Parliament, that privilege need not extend to publish reports of discussions in Parliament."

This, he felt, constituted a breach of privilege and contempt of the House.

2. Speaker permitted Shri Madhu Limaye to ask for leave of the House, which he did. As no member dissented, the leave was granted.

3. After some discussion, Shri Madhu Limaye moved, and the House adopted, the following motion:

"That this question of breach of privilege against the Columnist, Editor, Publisher, Printer and Proprietor of the *Hindustan Times* be referred to the Committee of Privileges."

Findings and recommendations of the Committee

4. The Committee of Privileges, in their Fourth Report presented to the House on the 12th December, 1967, reported *inter alia* as follows:

- (i) "The Committee, in the first instance, decided to give an opportunity to Shri S. Mulgaokar, the author of the impugned article as also the Editor-in-Chief of the *Hindustan Times*, to make his submissions in writing for the consideration of the Committee on the question of privilege against him. Shri S. Mulgaokar, in his reply, dated the 16th June, 1967 stated that it never occurred to him 'that the article in whole or any of its parts could be interpreted as an encroachment on the privileges that Parliament must enjoy in a democratic constitution for its proper functioning and that though sometimes an error of view may occur, it cannot be Parliament's intention to act in a way to suggest that every error regardless of the intention behind it is in contempt of the privileges of Parliament'. Shri S. Mulgaokar, did not, however, offer any explanation or clarification with regard to the use of the words 'Star Chamber' with reference to Parliament in

the caption of article as well as in its text and the specific passages in article to which objection was taken on the floor of the House as constituting a breach of privilege and contempt of the House."

- (ii) "The Committee, therefore, decided to examine Shri S. Mulgaokar in person."
- (iii) "Shri S. Mulgaokar, in his evidence before the Committee, did not deny that he had used the term 'Star Chamber' with reference to Parliament because some odium was attached to that term and that he wanted to convey that. He admitted that he might have been 'unwise' in using the expression 'Star Chamber' which might be 'unhappy' and that he was familiar with the background of the term 'Star Chamber'. He also admitted that at one or two places the expression of the article was 'rather loose' and that if he were to re-write the article, perhaps 'the phrasing would be different'. He, however, asserted that the reference to the 'Star Chamber' did not constitute an offence against the privileges of Parliament. He said that in his article he had not referred to a large number of members of Parliament who functioned in a completely irresponsible manner, misbehaved and attacked the people outside without proof but that 'certainly there have been some' such members. He stated that he had nowhere dedicated that he was trying 'to condemn the entire parliamentary system as it functions' and that 'it was not my intention to bring the institution of Parliament in disrespect'."
- (iv) "The Committee were not satisfied with the explanations offered by Shri S. Mulgaokar in his written reply and the oral evidence given before Committee."
- (v) "According to Webster's Dictionary, in English History, the 'Star Chamber' was an ancient High Court exercising wide civil and criminal jurisdiction, which could proceed on mere rumour, examine witnesses and could apply torture. It is noted for 'summary and arbitrary procedure'. This term is often used to mean 'any secret' 'oppressive or irresponsible tribunal'."
- (vi) "The Committee are of the view that the use of the term 'Star Chamber' with reference to Parliament by Shri S. Mulgaokar in his impugned article carries the insinuation that

Parliament as an institution is a sort of an oppressive and irresponsible tribunal and that a large number of members of Parliament function in a completely irresponsible manner, misbehave and attack the people outside without proof. The Committee do not agree with the contention of Shri S. Mulgaokar in his evidence that in using the term 'Star Chamber' in his article with reference to Parliament he was referring to the assumption of judicial functions more than to the oppressive part of it. He admitted before the Committee that he was aware of the background of the term 'Star Chamber'. There is nothing in the impugned article to indicate that Shri S. Mulgaokar was referring only to a few members of Parliament who, according to him, had used unjustifiable language in Parliament. In the opinion of the Committee, the impugned article gives the impression of condemnation of the institution of Parliament as such."

(vii) "The Committee are of the view that the article read as a whole and in particular the passages quoted in para 1 above, cast grave reflections on the institution of Parliament as such and the members thereof, and therefore, constitute a gross breach of privilege and contempt of the House."

(viii) "The Committee gave every opportunity to Shri S. Mulgaokar to express his regret for the offending expressions in the article. He, however, said:

'.....I shall readily express regret if that is the general impression created. But to the best of my own belief and conviction that is not what I intended to do.

* * *

My difficulty is if I am not convinced..... I can understand that you, Gentlemen, have to do your duty as you see it. I have to do mine as I see it."

(ix) "The Committee are of the view that Shri S. Mulgaokar, the author of the impugned article and the Editor-in-Chief of the *Hindustan Times*, is guilty of a gross breach of privilege and contempt of the House. The printer and publisher of the *Hindustan Times* is also technically guilty of a breach of privilege and contempt of the House."

(x) "As regards the proprietor, apart from the fact that the *Hindustan Times* is a limited company ownership of which vests in shareholders and Shri Mulgaokar denied in his evidence that the Birlas had asked him to write the impugned article or that he had written it to please the Birlas, there is nothing to show that any one else was responsible for the writing or publication of the offending article."

(xi) "The Committee feel that the penal powers of the House for breach of privilege or contempt of the House should be exercised only in extreme cases where a deliberate attempt is made to bring the institution of Parliament into disrespect and undermine public confidence in and support of Parliament. In the present case, Shri S. Mulgaokar repeatedly disclaimed before the Committee that he had any intention to bring the institution of Parliament in disrespect and contempt and said that if that was the result produced by his article then he would be very sorry about it. While the Committee feel that Shri S. Mulgaokar should have unhesitatingly and gracefully expressed an unconditional and unqualified regret, they consider that in the totality of circumstances, it would be better to ignore it as that would add to the dignity of the House. The Committee, therefore, do not consider it proper to recommend that any action should be taken against him."

(xii) "The Committee, therefore, recommend that no further action be taken by the House in the matter."

Action taken by the House

5. On the 23rd December, 1967, Shri Chand Goyal, a member moved the following motion:

"That the Fourth Report of the Committee of Privileges presented to the House on the 12th December, 1967, be taken into consideration."

6. After adoption of the above motion, Shri R.K. Khadilkar, Deputy Speaker and Chairman of the Committee, moved and the House adopted, the following motion:

"That this House agrees with the Fourth Report of the Committee of Privileges presented to the House on the 12th December, 1967."

439
LOK SABHA
(1967)

Point of privilege

Alleged reflections on the conduct of Ministers (members of the House) by a member of the other House.

Facts of the case and action taken by the House

On the 20th June, 1967, the Prime Minister (Shrimati Indira Gandhi) made the following statement:

"Some time back, Shri Arjun Arora (a member of Rajya Sabha) while addressing a meeting of the Congress Parliamentary Party made a general statement to the effect that some Central Ministers were in the pay of the Birlas. This statement naturally attracted the attention of the House. I requested Shri Arora to specify the allegations and the evidence bearing on them. He told me that the Ministers he had in mind were Shri Satya Narayan Sinha and Shri K. C. Pant. Subsequently, he sent me some notes concerning them.

I have gone into this material in consultation with my colleagues, the Deputy Prime Minister, the Home Minister and the Minister of External Affairs Shri Chagla. They have carefully examined the material made available to me together with the written statements of Shri Sinha and Shri Pant.

The Deputy Prime Minister, the Home Minister and Shri Chagla have come to the conclusion that the allegations made have not been substantiated. They are convinced that their examination of the material has revealed nothing relating to the conduct of Shri Sinha and Shri Pant which can be regarded as inconsistent with their integrity and honour as Ministers of Government. I am in entire agreement with this conclusion."

2. On the 21st June, 1967, Shri P. Ramamurti, a member moved the following motion:

"That in view of the statement made by the Prime Minister in this House yesterday that the allegations made by Shri Arjun Arora a member of Rajya Sabha, against Shri Satya Narayan Sinha and Shri K.C. Pant, Ministers and members of this House, had not been

substantiated, the question of privilege against Shri Arjun Arora for making those baseless allegations be referred to the Chairman, Rajya Sabha for action in accordance with the procedure laid down by the Committee of Privileges of Rajya Sabha and Lok Sabha in their Report of joint sitting in 1954 and adopted by the two Houses."

Shri P. Ramamurti contended that the allegations made by Shri Arjun Arora, which had not been substantiated, had brought the entire House into disrepute. This he felt, constituted a contempt of the House and requested that the matter should be referred to the Chairman, Rajya Sabha for investigation in accordance with the procedure evolved by the joint Report of Privileges Committees of both the Houses.

3. The Minister of Law (Shri P. Govinda Menon), participating in the debate, made *inter alia* the following observations:

".....Firstly, this is with respect to a matter of a statement which was not made on the floor of the Lok Sabha. The author, Mr. Arjun Arora, is a member of the other House. The statement itself was not made in public; it was made in a party meeting and made to the leader of the party....by a person who is a member of the party and, therefore, subject to the party discipline of the leader of the party, the Prime Minister.

.....One of the rules regarding defamation is that whatever is stated will not amount to defamation if it is stated before a person who has got disciplinary or other control over the matter.

.....It cannot go to a court of law because it is with respect to, and touches, the privilege of members of this House. Therefore, the test to be applied is whether there is defamation. Please permit me to read exception eight to the definition of 'defamation' in the IPC—

'It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.'

Here Shri Arjun Arora, a Congress member, interested in the purity of functioning of the Congress Party made an accusation in the forum

of the Congress Parliamentary Party before the leader of the Congress Party, and this exception aptly applies, on all fours it applies.

Now, it is said that it has become public property. Did Shri Arora publish it? Did the Prime Minister publish it?... If it has been made public, it has been made public by those who wanted to steal this information, and that is not a matter which is relevant for this purpose....

* * * *

Therefore, for two reasons, because this is an internal matter of the Congress Party, and secondly, because if these are treated as breaches of privilege party, functioning will become impossible in this country, without the least hesitation I oppose the motion of breach of privilege."

4. After a lengthy debate, the motion moved by Shri P. Ramamurti was put to vote and negatived by 152 to 114 votes.

440

LOK SABHA

(1967)

Point of privilege

Alleged reflections on the conduct of Ministers (members of the House) by a member.

Facts of the case and ruling by the Speaker

On the 23rd June, 1967, Shri A.B. Vajpayee, a member, sought to raise a question of privilege against Shri S.M. Banerjee, another member, on the following allegations made by him on the 30th May, 1967, while asking a question on a calling attention matter:

"May I know whether it is a fact that a Cabinet Minister and a Minister of State who were on the Birla list of honorarium are still getting honorarium and the Cabinet Minister was Chairman or Vice-Chairman of the Birla Trust and the Minister of State was not a Minister of State, I believe, in 1966? I would like to know whether they are getting it still. Is it also a fact that a worthy son of a worthy Cabinet Minister got Rs. 1,80,000 commission from Birlas in 1966? I would also like to know whether the hon. Prime Minister knows this fact and whether this fact about the Cabinet Minister was brought to the notice of Mr. Kamaraj who shamelessly said that he knows it."

Shri Vajpayee contended that in the light of the Prime Minister's statement made by her on the 20th June, 1967, exonerating the two Ministers from the charges levelled by Shri Arjun Arora, a member of Rajya Sabha, Shri S.M. Banerjee had committed a breach of privilege and contempt of the House and requested that the matter be referred to the Committee of Privileges for investigation.

2. The Minister of Law (Shri P. Govinda Menon) objected to the raising of the matter on the ground that a substantially identical matter had already been disposed of by the House in the same Session and, secondly, that Shri Vajpayee had not raised the matter at the earliest opportunity.

3. After some discussion, the Speaker (Dr. N. Sanjiva Reddy) reserved his ruling.

4. On the 27th June, 1967, the Speaker, disallowing the question of privilege observed as follows:—

"On the 23rd June, 1967, Shri A.B. Vajpayee sought to raise a question of privilege against Shri S.M. Banerjee, M.P., for certain observations made by the latter on the 30th May, 1967 while asking a question on a calling attention matter. Shri Vajpayee laid stress that the question arose out of my ruling on the 31st May, 1967. This request was supported by Sarvashri Madhu Limaye and George Fernandes. Shri S.M. Banerjee submitted that he welcomed the privilege motion against him and that if he had committed any offence by trying to defame the two Ministers he was prepared to undergo punishment for that.

The Minister of Law raised two objections: first, that rule 338 barred the raising of a substantially identical question on which the House had given a decision in the same session and, secondly, that Shri Vajpayee had not sought to raise the matter at the earliest opportunity. As regards the second objection of the Minister of Law, Shri Vajpayee stated that the Prime Minister had made her statement on Shri Arjun Arora's allegations on the 20th June, 1967 in the House and that he had given his notice against Shri S.M. Banerjee on the same day.

After hearing the members and the Minister of Law, I reserved my ruling. I have since considered all the points of view that have been urged and I have to state as follows:—

- (i) On the 30th May, 1967, during the course of proceedings on the calling-attention-notice. Shri S. M. Banerjee had sought clarification on the reported news of certain allegations and the two Ministers whom he had named made statements in regard to those allegations the same day.

The statement of the member Shri S. M. Banerjee, and the two Ministers are on record. Thereafter, Shri S.M. Banerjee did not move in the matter. The procedure laid down by me in my ruling dated the 31st May, 1967 does not therefore apply in this case.

- (ii) If as stated by Shri A. B. Vajpayee, his question of privilege arises after the Prime Minister made a statement on the 20th June, 1967, then the objection raised by the Minister of Law that the matter is barred under rule 338 becomes pertinent, as the House has already decided on the question of privilege which directly arose out of the Prime Minister's statement.

I, therefore, do not give my consent to raise this matter as a question of privilege."

441

LOK SABHA

(1968)

Point of privilege

Describing a member as a 'liar' in respect of a certain statement made by him in the House, in a letter addressed to Speaker and copies circulated to members and others by a citizen.

Facts of the case and action taken by the House

On the 15th February, 1968, Shri R. Umanath, a member, raised a question of privilege in the House against one Shri Ramkrishna Bajaj of Bombay for writing a letter to the Speaker, Lok Sabha, and circulating copies thereof to the members and others, describing Shri R. Umanath as a "liar", in respect of a statement made by him in the House on the 27th November, 1967. While raising the question of privilege, Shri R. Umanath stated as follows:—

"On 27-11-67 with your permission, I raised a half hour discussion on the Shiv Sena atrocities in Bombay against the linguistic

minorities residing in that city....During the discussion. I stated that the CIA is financing Shiv Sena through Shri Ramkrishna Bajaj. I made this statement with a full sense of responsibility, and I stand by it.

After that statement was made, on the 2nd of this month, Shri Ramkrishna Bajaj addresses a letter to you in which he states:

'In regard to the statement made by Shri Umanath M.P., in the Lok Sabha on 27 November, the Lok Sabha on proceedings quote him as having stated'.

And he quotes from the proceedings. The quotation is:

'Mr. Ramkrishna Bajaj is already at the receiving end of the CIA conduit. I charge that the Shiv Sena is financed by the CIA through Mr. Bajaj and I hope the Home Minister will take serious note of this'.

Then he says in that letter:

'I have no hesitation in asserting that Shri Umanath, at least in respect of this allegation, is a liar'.

This is the relevant portion.

Now, one should not go by the impression that this letter was addressed to you for the purpose of redressal. It was not to be, because the letter was addressed to you on the 2nd, and even before he receives any reply to this letter which he is supposed to have sent to you, within two days, on the 5th, he cyclostyles this entire letter and with a covering letter circulates it by public post to members of the Lok Sabha as well as to the public at large. So, it is obvious that it was not meant for any redress with regard to his individual integrity. The letter addressed to you was just a form, your address was taken advantage of to make a form and to serve as a *modus operandi* so far as Mr. Bajaj was concerned so as to circulate this letter to the public.

Now what is the purpose of this letter? Was it to clear himself of the charge? It was not to be, because immediately the charge was made here on the floor of the House on 29th November itself, he has issued a press statement where he has made his position clear. According to his own statement this press statement of his had appeared in some

of the prominent national dailies on 30 November, 1967. So, he has done that job to clear himself of the charge, and in the prominent national dailies his statement of rebuttal has appeared. So, many M.Ps. have read it and the public at large has read it, and yet this method is now being resorted to. The simple purpose of this new method is to degrade me, to malign me, and to wreak vengeance on me for my particular conduct on the floor of the House. That is the main purpose of this latest letter to you. And the purpose of that letter also is to terrorise me to take a course of his choice so far as my conduct on the floor of the House is concerned, and not a course of my choice. The purpose also is to prevent me in future from exposing any links of any person in this country with any foreign intelligence agency, and particularly of Mr. Bajaj. The attempt is to prevent me in future.

Now, I would like to state that this involves slighting of the Speaker and Lok Sabha Secretariat also, because I find from the circular that he has sent to the public that on 6 December he has written a letter to the Lok Sabha Secretariat and the Speaker and requested you to read it before the House, and the Lok Sabha Secretariat on your behalf has rightly rejected the request."

2. The Minister of Parliamentary Affairs (Dr. Ram Subhag Singh) said that he opposed leave being granted to Shri R. Umanath to raise the question of privilege. The Speaker, thereupon asked those members who were in favour of leave being granted to rise in their places. As more than twenty-five members rose, accordingly, the Speaker declared that leave was granted and asked Shri R. Umanath to move his motion.

Shri R. Umanath thereupon moved that the matter be referred to the Committee of Privileges.

3. Opposing the motion, Shri N. Dandekar a member, stated that Shri Ramkrishna Bajaj had not made any allegations or insinuations against Shri R. Umanath. He (Shri Ramkrishna Bajaj) had stated as a question of fact that what Shri Umanath had stated about him was false and that Shri Umanath was consequently a liar in that respect. According to Shri Dandekar, it was an assertion of fact and there was no imputation of any kind. Shri Dandekar maintained that Shri Ramkrishna Bajaj had done the right thing

in circulating copies of his correspondence with the Speaker to the members of the House as the Speaker had informed him earlier that he could not read out his letter to the House. He suggested that there should be some procedure to enable outside people, against whom allegations are made on the floor of the House, to vindicate and defend themselves.

4. Opposing the motion, Shri S. R. Rane, a member, said that under Rule 353 of the Rules of Procedure of Lok Sabha, it was specifically laid down that a member should not make any defamatory statement against any person. He contended that Shri Umanath who had made a defamatory statement in the House against Shri Ramkrishna Bajaj in violation of Rule 353 had no right to claim privilege under the rules of the House.

5. Shri Bal Raj Madhok, another member, opposed the motion and said that a member should not make insinuations or charges against anybody while speaking in the House, which cannot be proved in a court of law. He added that there should be some procedure by which citizens could defend themselves in such cases.

6. Supporting the motion for referring the matter to the Committee of Privileges, Shri Era Sezhiyan said that 'liar' was a very grave and unparliamentary word and, therefore, defamation had been caused in that case.

7. Shri H. N. Mukherjee supported the motion and said that the issue involved the question of a member of Parliament trying to do his duty according to his rights and in the performance of his duty bringing out certain facts which might be regarded as allegations. He contended that the action of Shri Ramkrishna Bajaj in circulating his letter to members and others amounted to "broadcasting a slander on a member of Parliament in so far as his conduct inside the House was concerned".

8. Opposing the motion, Shri Shantilal Shah, a member, said that the House should not be misused for making defamatory statements and then raising an issue of breach of privilege. He added that the honourable course open to Shri Umanath was to take action against Shri Bajaj outside the House for defamation for calling him a liar which had been said outside the House or to make his statement against Shri Bajaj outside so that Shri Bajaj could do it.

9. Shri Madhu Limaye said that Shri Ramkrishna Bajaj had full right to clarify his position and contradict the charges levelled against him, in exercise of his fundamental rights, but he had no

right to impute *mala fides* to Shri Umanath. Shri Limaye supported the motion for referring the matter to Committee of Privileges.

10. Shri K. Hanumanthaiya said that it was so minor and unimportant a matter that it was not worth intervention by the House. He appealed to Shri Umanath to withdraw his motion and leave the matter at that.

11. Shri Nath Pai said that this case had arisen out of a conflict between the rights and privileges of a member of Parliament and the rights of a citizen. In order to reconcile the two, it was necessary that the matter be referred to the Committee of Privileges for consideration.

12. After some more discussion, the motion for referring the matter to the Committee of Privileges was put to the vote of the House and was negatived.

442

LOK SABHA

(1968)

Point of privilege

Alleged reflections on the conduct of members

Facts of the case and reference to the Committee of Privileges

On the 7th May, 1968, Shri D. N. Patodia, a member, raised a question of privilege against the Editor, the Printer and Publisher of the *Maharashtra Times*, a Marathi daily of Bombay, and one Shri B. B. Paranjpe regarding a news report published in the *Maharashtra Times*, dated 3 May, 1968, which read *inter alia* as follows:

"Shri Paranjpe visited this area on Monday and collected information about the activities of Father Ferrer. He said that he has detailed information about how much money Father Ferrer has paid to some of the M.Ps. to help him to get the extension order. He also said that he is going to inform the President of India about this and demand that the President should look into the activities of these members of Parliament."

2. Shri D. N. Patodia added that the allegation that some members of Parliament took cash from Father Ferrer to help him to go the extension order was not only libellous but also a breach of privilege and contempt of the House.

3. The matter was then referred to the Committee of Privileges.

Findings and recommendations of the Committee

4. The Committee of Privileges, after examining Shri B. B. Paranjpe, the alleged author of the impugned remarks, in their Sixth Report, presented to the House on the 18th November, 1968, reported *inter alia* as follows:

- (i) "Shri G. S. Talwalkar, the Editor and Shri P. L. Sah, the Printer and Publisher of the *Maharashtra Times*, Bombay, in their joint written statement dated the 18th May, 1968 submitted to the Committee, stated as follows:—

'May we Sir put a few facts about the said news-item before you? The paper has nothing to do with Shri Paranjpe. He is the President of an institution named Sheel Samvardhan Sanstha (Character building institution) and is the editor of a periodical named Sadachar Bharati....'

We feel that the news-item should not have been published. It was published inadvertently but *bona fide*.

We would like to assure the Committee of Privileges that we have no intention of casting any aspersions on the integrity of the honourable members.

We, therefore, hereby, tender our apology and assure that we would make whatever other reasonable amends, if any considered necessary by the Committee....'

- (ii) "Shri B. B. Paranjpe, in his evidence before the Committee, stated that what he had heard at Manmad was only a loose and vague talk and that he had no direct or specific evidence of any money having been paid to any member of Parliament and nor was it possible for him to give any names. He said that he 'had a casual talk' with the correspondent of *Maharashtra Times* and he 'never thought that it will be published'. Shri Paranjpe admitted that he had 'committed a mistake' and expressed his sincere regret. He then submitted to the Committee the following written statement (both in English and Marathi) on the 29th August, 1968:

"Towards the end of April, 1968, I had gone to Manmad to enquire into the activities of Father Ferrer with a view to submit a memorandum to the President of India and his activities, People there vaguely talked about Father Ferrer having paid lots of money to many persons, including some members of Parliament, for getting his

deportation order cancelled by Government. I mentioned this casually to the Correspondent of the *Maharashtra Times*. This was not meant for publication. I have no direct evidence of any payment having been made by any member of Parliament. I had no intention of casting any reflection on members of Parliament or to lower the dignity of Parliament. I offer my sincere regret for this matter having been published in the *Maharashtra Times*, Bombay.'

Shri Paranjpe also undertook to get the Marathi version of his above statement published¹ in the *Maharashtra Times* Bombay, as soon as it restarted publication after the recent strike by Pressmen."

(iii) "The Committee feel that in view of the unqualified apology tendered by the Editor and the Printer and Publisher of the *Maharashtra Times*, Bombay, and the Sincere regret expressed by Shri B. B. Paranjpe, this matter need not be pursued any further."

(iv) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

6. No further action was taken by the House in the matter.

443

LOK SABHA

(1969)

Point of privilege

Derogatory comments by a newspaper on a member for his speech in the House

Facts of the case and action taken by the House

On the 18th March, 1969 Shri P. Venkatasubbaiah, a member, sought to raise a question of privilege against the *Organiser*, a weekly news magazine of New Delhi, for using derogatory language in respect of him in the following comments published in its issue dated the 15th March, 1969:

"Speaking on the no-confidence motion in the

Lok Sabha on February 18, Shri P. Venkatasubbaiah, a Congress Parliamentary Party Secretary said:

In West Bengal, I could understand the election results going in favour of the United Front. It is an impact of the Peking-Pindi axis on that West Bengal people.'

Venkatasubbaiah did not give his reasons for this astounding; assertions; may be because he was shouted down by the Communists or better still because nothing shames a Congressman more than to confess that he is born of a Hindu mother."

2. The Speaker (Dr. N. Sanjiva Reddy) observer, and the House agreed that he would in the first instance, ask the Editor of the newspaper to state what he had to say in the matter.

3. On the 22nd March, 1969, the Speaker informed the House as follows:

"I have now received a letter dated the 21st March, 1969 from the Editor of the *Organiser* in which he has stated *inter alia* as follows:

'I must say I am very sorry that half-sentence crept into the piece.

* * *

We are sorry for that comment—more so because we know Shri Venkatasubbaiah to be distinguished leader, an accomplished Parliamentarian and, above all a Hindu proud of his Hinduism.'

In view of this, I think the matter may be dropped. I take it that the House agrees."

4. No further action was taken in the matter.

444

LOK SABHA

(1969)

Point of privilege

Alleged reflection on members by a newspaper for their speeches in the House.

Facts of the case and action taken by the House

On the 3rd March, 1969, Shri Ananda Nambiar, a member, sought to raised a question of privilege against the *Maharashtra Times* a Marathi daily of Bombay, in respect of an article published under the caption *Bhuta Hathe Bhagwat* in its issue dated the

¹This was published in the *Maharashtra Times*, Bombay, dated the 7th November, 1968.

20th February, 1969 for allegedly casting reflections on certain members for their speeches in the House.

2. The Deputy Speaker (Shri R.K. Khadilkar), who was in the Chair, observed and the House agreed, that he would in the first instance, ask the editor of the newspaper to state what he had to say in the matter.

3. On the 25th March, 1969 the Speaker (Dr. N. Sanjiva Reddy) informed the House as follows:

"I have now received a letter dated the 22nd March, 1969, from the editor of the *Maharashtra Times* in which he has stated *inter alia* as follows:

'After going through the proceedings of the Lok Sabha, I am happy to note that Mr. Ramamurti had not blamed the whole of the Marathi people for the riots in Bombay. I therefore stand corrected.

Editorial was based on the press reports and the full text of the proceedings of the House could not be had. I hope, therefore, that you will agree that I had no intention to misrepresent any hon. member or to attribute any false motives to him.

I thank you and the members of Lok Sabha for giving me an opportunity to explain my position.'

In view of this, I think the matter may be dropped, and the editor asked to publish the factual position in the next issue of his paper."

The House agreed.

4. The *Maharashtra Times* accordingly published the necessary clarification¹ in its issue dated the 31st March, 1969.

445

LOK SABHA (1969)

Point of privilege

Alleged reflections on a member for his speech in the House.

Facts of the case and action taken by the House

On the 21st March, 1969, Shri Samar Guha, a member sought to raise a question of privilege against the *Basumati*, a Bengali daily of Calcutta,

for its alleged abusive editorial published in its issue dated the 18th March, 1969. The editorial related to his speech in the House on the 3rd March, 1969 on the motion for recall of the Governor of West Bengal, Shri Dharma Vira. In the editorial it had been stated *inter alia* that:

"PSP leader from West Bengal, Shri Samar Guha, pleaded for the Governor, Shri Dharma Vira, in Lok Sabha in Delhi. The role that he played in giving cover to Shri Dharma Vira could not have been excelled perhaps by the Congress members even..."

Samar Guha is fortunate that there was no election for the Lok Sabha during the mid-term poll; otherwise his condition would have been the same as is that of Shri Nishid Kundu—there was no doubt about this. Nevertheless his role in Lok Sabha in support of Dharma Vira will not be forgotten by the people of West Bengal during the time of coming general election".

2. The Speaker (Dr. N. Sanjiva Reddy) observed and the House agreed, that he would, in the first instance, ask the editor of the newspaper to state what he had to say in the matter.

3. On the 9th April, 1969, the Speaker informed the House as follows:

"I have now received a letter dated the 31st March, 1969 from the Editor of the *Basumati* in which he has stated *inter alia* as follows:—

'From the report of the proceedings of Lok Sabha on the 3rd of March last as reported in several papers, including *Amrita Bazar Patrika* on the 4th March, 1969, an impression was created that Shri Samar Guha, M.P., opposed the admission of the short notice question put by Shri Jyotirmoy Basu regarding the recall of the West Bengal Governor, Shri Dharma Vira....

On the basis of that report the editorial in question was published in *Daily Basumati* on the 18th March, 1969.... Having regard to the statement of Shri Samar Guha I find that the said reports on the basis of which the said editorial was written were not correct and I regret that the said editorial was written on an erroneous, though bonafide impression of the stand taken by Shri Samar Guha, M.P. In any

¹A copy of the clarification published in the *Maharashtra Times* was placed in the Parliament Library and a para (No. 1098) to this effect was published in the Lok Sabha Bulletin Part II, dt. 3-4-1969, for the information of members.

event no personal reflection was meant against Shri Samar Guha.'

In view of this, I think the matter may be dropped and the Editor asked to publish the factual position in the next issue of his paper.

I take it that the House agrees."

The House agreed.

4. The editor of *Basumati* accordingly published the necessary clarification¹ in its issue dated the 13th April, 1969.

446

LOK SABHA

(1969)

Point of privilege

Reference to Central Hall, Parliament House, as "funny hall".

Facts of the case and ruling by the Speaker

On the 11th August 1969, Shri K. Lakkappa, a member, sought to raise a question of privilege against Shri S. Nijalingappa, President of the Indian National Congress, for his following reported remarks¹ at a meeting of Congress Parliamentary Party which were published in newspaper as:

"Earlier Mr. Nijalingappa in the course of his speech appealing to partymen to ensure the success of Mr. Sanjiva Reddy, described the Central Hall of Parliament, where the meeting was held, as a 'funny hall'. It was a place where stories were created and circulated. They should not be believed...."

2. The Speaker (Shri G. S. Dhillon), disallowing the question of privilege, observed:

"....my commonsense view is that the Central Hall happens to be a hall where the Constitution was framed. But this Hall did not know that the members will be using it as a coffee-room or as a lounge or even as a party room. If there is a party meeting, it is converted into a party room. If there is a meeting for coffee, tea or *lassi* it is converted into a lounge. The hon. member had never raised any question about the sanctity of the Hall being preserved. Why, does he, therefore, raise this point now?"

3. The matter was thereafter closed.

447

LOK SABHA

(1970)

Point of privilege

Alleged reflections on the conduct of a member of Lok Sabha by a member of Rajya Sabha

Facts of the case and action taken by the House

On the 30th March, 1970, Shri Niren Ghosh, a member of Rajya Sabha, made the following remarks during the course of a debate in Rajya Sabha:—

"There are rumours that Mr. B.M. Birla and some Swatantra M.P. is trying to purchase M.Ps. and I would like the Home Ministry to make an enquiry into it...I will name him. He is Mr. Patodia (a member of Lok Sabha)....They are making a list of M.Ps. and they are trying to purchase them. I hope the Vigilance Department will enquire into it. That is my point."

2. On the 1st April, 1970, Shri D.N. Patodia made a personal explanation in the Lok Sabha repudiating the above allegations made against him by Shri Niren Ghosh in Rajya Sabha. Shri D.N. Patodia stated *inter-alia* as follows:—

"I emphatically repudiate these allegations which are false, derogatory and irresponsible. I now leave it to Shri Ghosh that if he is honourable enough, he would correct himself and apologise for the wrong done to me."

3. After some discussion the Speaker (Dr. G.S. Dhillon) observed that he would take up the matter with the Chairman of Rajya Sabha. Accordingly, in a letter addressed to the Chairman, Rajya Sabha, inviting his attention to the matter, the Speaker observed *inter-alia* as follows:—

"You will agree that it is not desirable for members of one House to make allegations or cast reflections on the floor of the House on the members of the other House."

4. In his reply addressed to the Speaker, the Chairman (Shri G.S. Pathak), Rajya Sabha, observed *inter-alia* as follows:—

"I am in entire agreement with you that members

¹A copy of the clarification published in the *Basumati* was placed in the Parliament Library and a para (No. 1117) to this effect was published in the Lok Sabha Bulletin Part II, dt. 17-4-1969, for the information of members.

of one House should not make allegations or cast reflections on the floor of the House on the members of the other House. In the Rajya Sabha, such conduct on the part of any member has invariably been deprecated, and, in fact, in the instance to which you refer the Deputy Chairman expressed his disapproval of what Shri Niren Ghosh had said. I also had occasion to mention the matter in the House today (4.4.1971)."

5. The matter was, thereafter, treated as closed.

448

LOK SABHA

(1970)

Point of privilege

Alleged reflections on members by a newspaper

Facts of the case and action taken by the House

On the 24th April, 1970, Shri Bhogendra Jha, a member, raised a question of privilege against the *Aryavarta*, a Hindi daily of Patna, in respect of the following passage contained in an editorial article published under the caption *Sanskrit Granthon Ki Bikri*, in its issue, dated the 19th April, 1970 allegedly casting reflections on certain members of the House:—

"The communist members of Parliament took exception to the disclosure made by a Jan Sangh member, Shri Ram Gopal Shalwale, in the Lok Sabha, that Sheikh Abdullah, while he was Prime Minister of Jammu and Kashmir, had sold many Sanskrit works to foreigners. We are not surprised at this because communists, though born in India. Consider some other country as their fatherland and they love the culture of that country only. They do not, therefore, want such precious things to be preserved in India which can secure India's ancient thought, traditions, culture, civilisation etc. Therefore, if Sheikh Abdullah was criticised for selling the priceless Sanskrit works, it was natural for the communists to take exception to it...."

2. The Deputy Speaker (Shri G.G. Swell) who was in the Chair, informed the House that the Editor of the newspaper had been asked to state what he had to say in the matter and that the reply of the Editor was awaited.

3. On the 14th May, 1970, the Speaker

(Dr. G.S. Dhillon) informed the House that the Editor of the *Aryavarta*, in his reply had stated *inter-alia* as follows:—

"In the article on the basis of which Shri Bhogendra Jha has made the allegation against us of breach of privilege, we have not expressed any criticism against any particular member of Parliament but we have expressed our concern that the valuable treasures of India are being destroyed....

It is clear from the article that no insinuation has been made against Parliament or the members and we cannot ever dare do so. We have every respect for Lok Sabha and Vidhan Sabhas as they are the symbols of democracy and it is only safeguarding their dignity that the dignity of the country can upheld."

4. The Speaker suggested that in view of the explanation received from the Editor of the "*Aryavarta*", if the House agreed, the matter might be closed. The House agreed and no further action was taken in the matter.

449

LOK SABHA

(1970)

Point of privilege

Allegation by a member in Rajya Sabha of bribery of members for voting against a Bill in Lok Sabha

For details of the case pl. see summary No. 78 at p. 147 ante.

450

LOK SABHA

(1971)

Point of privilege

Alleged defamatory remarks about a member in an article published in a newspaper

Facts of the case and action taken by the House

On the 10th August, 1971, Shri B.P. Maurya, a member raised a question of privilege in respect of an article published in the *Nav Bharat Times*, New Delhi, a Hindi daily, in its issue dated the 6th August, 1971, allegedly casting reflections on him. The impugned article related to Shri Maurya's remarks in the House on the 4th August, 1971 during the supplementaries on a

Starred Question regarding the Fourth Centenary of *Ramcharit Manas*. The said article contained *inter-alia* the following remarks:—

“There are some persons who call themselves as Mauryas, some are historians who know the meaning of Maurya. We are not aware of who they are. It would have sufficed to be an M.P. Had Goswami Tulsidas not been there, Shri B.P. Maurya would have been found sewing the *Pyjamas* of a Maulvi free of charge, before embracing Buddhism. An interesting feature of democracy is that even a man under 4¹/₂ ft. in height tries to vie with persons in highest positions. Every son born in Maurya family does not achieve the height of Chandra Gupta Maurya. Chandra Gupta Maurya also respected the Acharyas.”

2. The Speaker (Dr. G.S. Dhillon) observed as follows:—

“We will send it to the newspaper concerned. After that, if they express regret, I will pass it on to Shri Maurya. Otherwise, we will take it up again.”

3. On the 22nd November, 1971, the Speaker informed the House that the Editor of the *Nav Bharat Times* had sent him a letter dated the 11th August, 1971, in which he had stated *inter-alia* as follows:—

“We had no intention of hurting the feelings of the member of the Honourable House. As Mr. B.P. Maurya has taken objection to the publication of this item, as Editor of the paper, I hereby tender my apologies to the member and to the Honourable House.”

The Speaker added that a copy of the Editor's letter had been passed on to Shri B.P. Maurya and as desired by the latter, the Editor had published his own and the writer *Viveki's* apology in his newspaper dated the 24th September, 1971.

4. Thereafter, the matter was closed.

451

LOK SABHA

(1972)

Point of Privilege

Alleged criticism of members' conduct in the House by the Prime Minister in her Chamber

Facts of the case and ruling by the Speaker

On the 18th August, 1972. Shri Jyotirmoy Bosu a member, sought to raise a question of privilege against the Prime Minister for allegedly criticising his conduct in the House when he went to her chamber on the 16th August, 1972, in a deputation to discuss the matter regarding “Bombay Strike”. Shri Bosu alleged that the Prime Minister had criticised him and other members of the deputation for pressing the acceptance of their adjournment motion on “Bombay Strike” in the House on the 16th August, 1972. He contended that what the members did in the House could not be subject matter of discussion outside the House.

2. The Speaker (Dr. G.S. Dhillon) while disallowing the question of privilege observed as follows:—

“As Leader of the House, she (Prime Minister) can meet you in her room and discuss so many things. It will be setting an unhealthy precedent if the Prime Minister were always to be in the fear that whatever she is saying in her room may not come out as a privilege or some other motion later. I do not think it is very correct.”

452

LOK SABHA

(1972)

Point of privilege

Alleged reflections on members by a newspaper

Facts of the case and ruling by the Speaker

On the 4th September, 1972, Shri Jyotirmoy Bosu raised a point regarding the following remarks contained in an Editorial article appearing in the *Indian Express*, dated the 4th September, 1972 about the proceedings of the House:—

“The ham-handed tactics resorted to by some of the clowns who masquerade as the Government's spokesmen in the Lok Sabha strains one's credibility in the capacity of small men to exercise their small minds.”

2. The Minister of Parliamentary Affairs (Shri Raj Bahadur) stated as follows:—

“There must be a balanced view taken and an objective view taken and not a partisan view. We have got greater respect for the editorial and for the Editor who put out that editorial.

But we cannot say that editorial is not partisan or that it is balanced."

3. After some discussion, the Speaker (Dr. G.S. Dhillon) observed *inter-alia* as follows:—

"We should not give any chance for such comments in future. But the language in which this is mentioned has not been very pleasing to me."

They do not spare any one of us. We have all respect for them. Sometimes the comments are a little harsher; some times they are balanced; sometimes they are pleasant. My view is this, so far as observations on these procedures are concerned. It is a different matter what they write about debate. There may be some procedural lacuna or some other difficulty may arise in the House, and on that also we see this. The rules do not provide for anything and everything. They should not give such loud stretch of imagination and use some harsh words about one side. That is all that I would say."

The matter was, thereafter, closed.

453

LOK SABHA
(1973)

Point of privilege

Reflections on the House by a newspaper

Facts of the case and action taken by the House

On the 18th August, 1972, Shri Jyotirmoy Bosu a member, sought to raise a question of privilege against the *Jugantar*, a Bengali language daily of Calcutta, for allegedly casting reflections on the House in an article published in its issue dated the 27th April, 1973. While raising the matter, Shri Bosu stated *inter-alia* as follows:—

"In *Jugantar*, one of the leading Bengali-language dailies of West Bengal, of which Shri Tushar Kanti Ghosh is the Managing Editor and also an owner, in a feature article, they have written the following:—

6. *Dellite Parlamente Russfar Probab Kinicht Hrush Peyeché*

which means in English,

'In our Parliament at Delhi' Russian influence has decreased to a very little extent'.

This means that our august Houses were and are under great pressure and influence of the Government of Soviet Russia. Parliament is sovereign and independent and to describe it as acting under pressure and influence of a foreign Government is defamatory, derogatory and dangerous. Nothing more contemptuous could be said."

Shri Bosu desired the matter to be referred to Committee of Privileges.

2. The Speaker (Dr. G.S. Dhillon) observed that before giving his consent, he would ask the Editor of the newspaper to state what he had to say in the matter.

3. On the 15th May, 1973, the Speaker informed the House:—

"I have received a letter from the Editor of the *Jugantar* dated the 12th May, 1973, which reads, *inter-alia*, as follows:

'Since the receipt of your letter I have gone through the said article very closely. I have also talked to the author of the article. The sentence, as quoted by Shri Bosu, was written in course of a piece on the relation between the Congress and the CPI. It was written in a political context and the idea that was intended to be conveyed through it was that the influence of those members who generally support closer ties between Soviet Russia and India has recently been less felt in Parliament than before. But I agree with Shri Bosu that the language in which this sentence has been written is unfortunate. I can assure that it has been far from the writer's and our intention to suggest that the honourable members of our Parliament have been working under foreign influence. We regret having in any way hurt the feeling of Shri Bosu and other MPs., and for giving the impression of putting the House into contempt.

In view of the above explanation and regret offered by the Editor of the *Jugantar*, if the House agrees, the matter may be treated as closed."

4. The House agreed and the matter was closed.

454

LOK SABHA

(1973)

Point of Privilege

Alleged reflections on a member for his speech in the House

Facts of the case and action taken by the House

On the 5th September, 1973, Shri Madhu Limaye, a member, sought to raise a question of privilege against the J.K. Organisation, Kanpur, for issuing a press statement as reported in the *Hindustan Times*, dated the 1st September, 1973, which *inter-alia* read as follows:—

"J.K. ORGANISATION

'wrongly named'.

New Delhi, Aug. 31. The Secretary, J.K. Organisation, Kanpur has issued the following press statement:

'It has been reported in the press that Mr. Madhu Limaye, M.P., while speaking in Parliament about the alleged frauds in the Bank of Baroda, stated that a number of cheques issued by J.K. Organisation, an industrial group, 'bounced'. the Organisation has no account with the Bank of Baroda, either at Bombay or Kanpur. The said allegation appears to have been made wrongly and the Organisation has incorrectly been named by the hon. member in this context'."

Shri Limaye stated that the above press statement referred to the exchanges in Lok Sabha during the discussion on the Calling Attention matter regarding fraud in the Bank of Baroda, Bombay, on the 24th August 1973. He added that he had never mentioned the "J.K. Organisation" at all in Lok Sabha but only mentioned companies belonging to the 'J.K. Group'. He alleged that by publishing the above press statement, the "J.K. Organisation" had not only made a misleading statement but also cast reflections on him.

2. The Speaker (Dr. G.S. Dhillon) observed *inter-alia* as follows:—

"...we will enquire as to which J.K. Organisation approached *Hindustan Times*. We will enquire all about it from *Hindustan Times* as to who are the people who gave this news, how they gave in and all that."

3. The Editor *Hindustan Times* who was asked to

intimate the name and address of the person who had issued the press statement, intimated that it was based on a statement issued by the Secretary, J.K. Organisation, Kanpur and received by him through an advertising agency.

4. On the 19th November, 1973 the Speaker informed the House that the Secretary, J.K. Organisation, Kanpur, who was asked under his direction to state what he might have to say in the matter in his reply dated the 17th October, 1973, had stated *inter alia* that he had issued the impugned Press statement on the basis of a news-item published in the *National Herald* dated the 25th August, 1973. The Speaker added that the Secretary, J.K. Organisation, had further stated:—

"....It now appears that the press note published in the *National Herald* was incorrect and misleading... Like every one else, I assumed the news item in the *National Herald* to be correct version of what Shri Limaye had said in the House and proceeded on that basis..... The press statement was issued by me in the honest and *bonafide* belief that the news item published in the *National Herald* was correct.

* * * *

In the end I would, on behalf of the J.K. Organisation, again like to express regret in case any inconvenience or misunderstanding has been caused to Shri Limaye as regards this matter. I would like to assure him that the press statement was issued in good faith for the protection of the reputation of the J.K. Organisation without any intention of affecting in any way the image and reputation of Shri Limaye and without the least idea that it will in any way involve any question of privilege."

The Speaker observed that in view of the explanation and regret expressed by the Secretary, J.K. Organisation, the matter might be treated as closed.

5. Shri Madhu Limaye thereupon drew the attention of the House to the following two paragraphs in the impugned press statement which according to him, were irrelevant and uncalled for on the part of J.K. Organisation:—

"At times, the banks unilaterally make debits to the account of the constituents which information is passed on to them very late. Cheques drawn

on banks are based on the account appearing in the books of the constituents from day to day. Due to this reason, if any cheque remains unpaid, the same is paid subsequently by replenishing bank's account immediately on receipt of the information from the bank.

In cash credit account the Banks advances only to the extent of 70 to 75 per cent of the value of the goods. Thus the Banks always hold 30 to 25 per cent by way of margin. Where is then the criminal offence or necessity for further protection?"

Shri Limaye desired that the J.K. Organisation might be asked to clarify as to why they had included the above paragraphs in their statement when, according to them no cheques issued by that Organisation were bounced by the Bank.

6. The Speaker then observed *inter alia* as follows:—

"I have laid it before the House. I think we should accept it. But, at the same time, I will convey that this part which is brought to our notice by Shri Madhu Limaye, is also there which is highly regrettable, I think we should drop this."

7. Accordingly, the observations of the Speaker were conveyed by a letter to the J.K. Organisation and the matter was closed.

455

LOK SABHA

(1974)

Point of Privilege

Casting aspersions on members in a news report published by a newspaper.

Facts of the case and ruling by the Speaker

On the 23rd April, 1974, Shri K.P. Unnikrishnan, a member sought to raise a question of privilege against the *Organiser*, a weekly published from New Delhi for allegedly casting aspersions on members in a news report entitled "Lok Sabha Intruder belongs to Youth Congress" published in its issue dated the 20th April, 1974. The impugned report related to the incident of shouting of slogans by a visitor from the Visitors' Gallery on the 11th April, 1974. While raising the matter, Shri Unnikrishnan stated, *Inter alia*, as follows:—

"The *Organiser*, a weekly published from New Delhi, in its issue dated.... 20th April, 1974.... has published a report item from 'a

Special Correspondent' entitled 'Lok Sabha Intruder belongs to Youth Congress' and subtitled 'Chor Machaye Shor'. There is a passage in that report, which reads as follows:—

'At another corner of Parliament House, this variety of pseudo-politicians known to be Shrimati Gandhi's conscience-keepers and her advisers and pro-CPI members such as Shri K.P. Unnikrishnan, Shri Satpal Kapoor and company went into a huddle and soon as plausible story was manufactured and fed to the Watch and Ward Department, who are the securitymen inside Parliament House, and one of those members had grappled with Ratan Chandra Gupta, so that within an hour the Watch and Ward men were telling all the MPs the story of their exploit with much more embellishment than they had done earlier.

* * * *

However after the pro-Communist MPs had given the storyline to the Watch and Ward, they began saying that Ratan Chandra Gupta had also asked from one of the bystanders in the queue (waiting to go into the visitors' gallery) 'Is Shrimati Gandhi inside the House'. That this query coming from Ratan Chandra Gupta was concocted in order to give a twist to the whole incident, was beyond doubt.

Now, here is a wilful attempt with a clear intent to defame the members in the House and it clearly involves two or three significant points. One, that myself along with two other members of the House. Mr. Shashi Bhushan and Mr. Satpal Kapoor, were spreading falsehood within the precincts of the House and secondly, that we concocted and manufactured a story about an event with which the House was seized and about which the House having satisfied itself and taken all facts into consideration and had taken action; that we manufactured a story and influenced the Watch and Ward staff, who, Sir, are under your charge and who are also servants of this House and that the Watch and Ward staff knowingly colluded with the members of the House in spreading a concocted version. Sir, this passage is defamatory and it involves

a breach of privilege and grave contempt of the House, its members and the Watch and Ward staff of the Parliament House. There is also an attempt to influence or intimidate the servants of the House and if the obstruction in discharge of their normal duties involves a clear breach of privilege and contempt of the House then this is a grave charge. So, Sir, I move a Motion of Privilege against (1) *The Organiser's* Editor-in-Chief Mr. K.R. Malkani (2) Editor Mr. V.P. Bhatia, (3) Printer and Publisher Mr. Brij Bhusan and (4) Special correspondent name unknown, and ask for leave of the House for my motion."

2. During a brief discussion, the Speaker (Dr. G.S. Dhillon) observed *inter alia*, as follows:—

"We will follow the practice which we have been following, namely, that we will send this press cutting and a copy of the motion to the paper concerned for its comments.... So that if they have any comments to offer, they can do so later."

3. On the 10th May, 1974, the Speaker informed the House *inter alia*, as follows:—

"I have now received a reply dated the 30th April, 1974, from the Editor-in-Chief, of the *Organiser* in which he has, *inter alia* stated as follows:—

'We have not commented on the proceedings of the House or on anybody's conduct in the performance of his duties as a Member of Parliament.

.

Our report was only reflecting this lively variety of opinion among MPs. There was no reflection on anybody's conduct in performance of his parliamentary duties. And we submit that what an MP says and/or does outside the House cannot be the subject of privilege.

There was thus no breach of privilege of the House or of any member thereof. If we have nevertheless, inadvertently hurt anybody's *amour propre*, we are sorry for it. We regret the reference to Watch and Ward Staff who undoubtedly gave an excellent account of themselves in grabbing the intruder.'

In view of the explanation and regret by the Editor-in-Chief of the *Organiser*, if the House agrees, the matter may be treated as closed."

However, since Shri K.P. Unnikrishnan was not present in the House that day, it was decided to keep the matter pending.

4. On the 30th July, 1974, after Shri K.P. Unnikrishnan expressed dissatisfaction in the House on the reply sent by the Editor-in-Chief of the *Organiser* and desired that the matter be referred to the Committee of privileges, the Speaker disallowed the question of privilege and ruled *inter alia* as follows:—

"The other day after going through all this record and reading between the lines and looking to the spirit of the explanation given by the paper, I had come to the conclusion that no privilege is involved, especially, in view of the fact that the paper had also expressed regret... I recommend that this be dropped."

5. The matter was accordingly dropped.

456

LOK SABHA
(1974)

Point of Privilege

Casting reflections on a member by a newspaper

Facts of the case and ruling by the Speaker

On the 13th March, 1974, Shri P.G. Mavalankar, a member, sought to raise a question of privilege against the *Patriot* newspaper, Delhi for publishing in its issue, dated the 12th March, 1974 the following news-item regarding his speech during the debate on Gujarat in the House on the 11th March, 1974:—

"The highlight of the day was a moving speech from Mr. P.G. Mavalankar, an independent member who was associated with the movement in its initial stages, but was brushed aside by the students when he tried to form a political party out of it and become its leader."

While raising the matter, Shri Mavalankar stated that the impugned news report was baseless, mischievous and malicious and cast reflections on his conduct and integrity.

2. The Speaker (Dr. G.S. Dhillon) observed that he would call for the comments of the newspaper.

3. On the 15th March, the Speaker informed the House that the Editor of *Patriot*, in his letter dated the 14th March, 1974, had stated as follows:—

"I beg to state that there is no misreporting of the proceedings of Parliament involved in the report.

As stated in the report the speech by Mr. P.G. Mavalankar during the debate on the Presidential Proclamation of Gujarat was, in the opinion of our correspondent 'moving' and the 'highlight of the day'.

It is evident that there is no intention or attempt in the report to cast any aspersion or any reflection on the integrity of Mr. Mavalankar.

It is also clear that the subsequent parts of the sentence to which objection has been raised do not relate to the proceedings in Parliament and we beg to state that no contempt of either the House or any of its honourable members has been intended.

We wish to assure the Speaker, Lok Sabha, that we had no intention by the publication of the report or any part of it to commit a breach of the privilege of any hon. member of the House.

We also wish to assure Mr. Mavalankar that no mischief or malice was intended in our report nor did we seek to cast any reflection on his character or integrity."

4. The Speaker observed that in view of the explanation of the Editor of the *Patriot*, the matter might be treated as closed.

The matter was thereafter closed.

457

LOK SABHA
(1974)

Point of Privilege

Reflections on the House in a communication allegedly addressed by the President of a Cooperative House Building Society to Lt. Governor.

Facts of the case and reference to the Committee of Privileges

On the 9th May, 1974, Shri Atal Bihari Vajpayee, a member, raised a question of privilege against Shri Jagjit Singh, President, the New Friends Cooperative House Building Society Ltd., Delhi, regarding a letter purported to have been written by him to Shri Baleshwar Prasad, the then Lt. Governor of Delhi, on the 7th May, 1974, which read *inter alia* as follows:—

"As desired, I have succeeded in passing a resolution in the Committee meeting on 29th April, 1974. Luckily only one out of

three from other side attended. He raised certain objections which were overruled by me. His main objection was that the Lt. Governor and Managing Committee have no moral authority to have any further hold on the Society.

I have assessed the situation and feel it will not be possible for me and Committee to stand the opposition in view of the Court's attitude and its further exploitation in Parliament and Papers unless full support from Police and Registrar of Societies is afforded much more than ever. The new 60 members can remain in if I am there.

Since you are busy due to riots in the City, I will give the notice in newspapers only when I get green signal. It is good that Parliament closes on or before 13th May, 1974."

2. While raising the question of privilege, Shri Vajpayee said that he had a photostat copy of the impugned letter dated the 7th May, 1974 written by Shri Jagjit Singh to the then Lt. Governor of Delhi. He invited specific attention of the House to the statements "exploitation in Parliament" and "It is good that Parliament closes on or before 13th May, 1974", occurring in that letter and contended that by using the above phraseology Shri Jagjit Singh had cast reflections on Parliament and its members.

3. After leave was granted by the House, Shri Vajpayee moved the following motion which was adopted by the House:—

"That the question of privilege against Shri Jagjit Singh, Chairman of the New Friends Cooperative House Building Society, be referred to the Committee of Privileges for investigation, with instructions to report by the first day of the next session."

Findings and recommendations of the Committee

4. The Committee of Privileges, after examining Sarvashri Jagjit Singh, Baleshwar Prasad, the erstwhile Lt. Governor of Delhi and Rajni Kant, Secretary (Law and Judicial), Delhi Administration, Delhi, and also after perusing the material called for by the Committee from Shri Jagjit Singh and the Delhi Administration, in their Fourteenth Report, presented to the House on the 10th March, 1975, reported *inter alia* as follows:—

(i) "The Committee observe that Shri Jagjit Singh, the alleged author of the impugned letter dated the 7th May, 1974,

had denied in his letter dated the 9th May, 1974, addressed to the Speaker, Lok Sabha, that he had written any such letter at all. Shri Jagjit Singh had reiterated his denial when he appeared before the committee for oral examination....The Committee also observe that Shri Baleshwar Prasad, the then Lt. Governor of Delhi had also denied both in writing as well as during his oral evidence before the Committee.....that he had received the impugned letter dated the 7th May, 1974, from Shri Jagjit Singh."

- (ii) "After careful consideration of the evidence given before the Committee both oral as well as written, the Committee have come to the conclusion that in spite of certain serious misgivings about the transaction under reference arising out of circumstantial details emerging before the Committee....the existence of the impugned original letter dated the 7th May, 1974, allegedly written by Shri Jagjit Singh to Shri Baleshwar Prasad, the then Lt. Governor of Delhi, has not been proved to the entire satisfaction of the Committee. The Committee are, therefore, of the opinion that the matter should be dropped and no further action be taken by the House in the matter."
- (iii) "However, from the material placed before the Committee and the circumstances of the case, the Committee feel that the affairs of the New Friends Cooperative House Building Society Limited, Delhi, require to be looked into thoroughly. During the proceedings before the Committee, the Committee were informed that the Supreme Court had appointed a retired Judge of the Calcutta High Court to go into the whole question of land allotment by the Society. The Committee are not aware of the stage or nature of proceedings before the Supreme Court. The Committee nevertheless hope that the affairs of this Society will be looked into thoroughly by the Central Government."
- (iv) "The Committee recommend that no further action be taken by the House in the matter as a question of privilege and it may be dropped."

Action taken by the House

5. No further action was taken by the House in the matter.

458

LOK SABHA (1974)

Point of Privilege

Alleged reflections on the House and its members by a Hindi newspaper.

Facts of the case and action taken by the House

On the 3rd September, 1974, Shri Piloo Mody, a member, raised a question of privilege against *Pratipaksha*, a Hindi weekly, for publishing in its issue dated the 8th September, 1974 an article allegedly casting reflections on the House and its members. While raising the matter Shri Piloo Mody stated:—

"May I draw your attention to the report published in the latest issue of *Pratipaksha* edited by a former member of Parliament.

The report says that some of the 20 members who denied the genuineness of their signatures to the Licence Memorandum were telling a lie. The report also says that these signatures were manipulated by the Minister for Railways, Shri L.N. Mishra. The front page report denounces the Prime Minister as the main source of corruption. This is gross contempt of the hon. members and of the whole House."

2. After leave was granted by the House, Shri Piloo Mody moved that the matter be referred to the Committee of Privileges.

3. Shri Madhu Limaye, another member, then moved the following amendment:—

"That in the motion, *add* at the end—

"That this House further resolves that all the documents in connection with the Licence Case be seized and kept under the custody of the Speaker, and that the Committee submit its preliminary report before the end of the Winter Session of Parliament'."

4. On the 5th September, 1974, the Minister of Law, Justice and Company Affairs (Shri H.R. Gokhale), while opposing the motion, observed *inter alia* as follows:—

"Because a mere reading of the dirty article in *Pratipaksha* needs no conviction for any right-thinking person to come to the conclusion and it is a defamatory and contemptuous article. Therefore, there can

be no two opinions and there should be no hesitation in unequivocally condemning this scurrilous writing referred to in this weekly *Pratipaksha*.

....A surreptitious method by the backdoor is being adopted to have the matter sent to the Privileges Committee. That is why, and for no other reason, we are opposing this motion for reference to the Privileges Committee. I once again repeat that we are second to none in our condemnation of the dastardly and scurrilous manner in which the editor of the weekly which has been referred to the hon. members of this House and the whole House itself.

I commend to the House that this motion be rejected."

5. After a lengthy debate, the amendment moved by Shri Madhu Limaye and the motion moved by Shri Piloo Mody were put to vote and negated by the House.

459

LOK SABHA (1976)

Point of Privilege

Alleged aspersions on a member in a news-item published in a weekly newspaper

Facts of the case and ruling by the Speaker

On the 23rd August, 1976, Shri Nawal Kishore Sinha, a member, sought to raise a question of privilege against the Editor, Printer and Publisher of *The Current*, Bombay, a weekly newspaper for publishing a news report entitled 'Corrupt Caught' in its issue of 21 August, 1976, allegedly casting aspersions on the Member. While raising the matter, Shri Sinha stated, *inter alia*, as follows:—

'....In its issue of Saturday, August 21, 1976, Vol. XXVII, No. 52 the Printer, Publisher and Editor of *The Current Weekly*.... has published ...my photograph....with the boldest of headings 'Corrupt Caught'. It has also published a caption 'Confused Identity' under my photograph. It hopes to do the impossible by confusing me with one Shri Nawal Kishore Sinha who is at present M.L.A., Bihar and hinting a sinister link

between me and the above-mentioned person.....As this is most atrocious of lies and a fabrication deliberately meant to involve me, I wish to deny every facet of the same. I was never in any capacity, whatsoever, connected with the things mentioned in that news coverage. Then news coverage reveals certain allegations against the Urban Co-operative Bank, Patna of which one Shri Nawal Kishore Sinha presently M.L.A. of Bihar was the Chairman. I was in no way associated or connected with the Bank referred to above. I am the Chairman of the Bihar State Co-operative Marketing Union against which no charge has been preferred and no findings recorded.

...Sir, by the publication of the above news with my photograph inserted with defamatory intent, I, as a member of this august body, have been deprived of the unimpeded use of this House. This news has brought me in a bad light, it has lowered me in public estimation and has deprived me of the peace of mind and heart. It is in view of that, I seek your protection and that of the House for vindication of my honour and dignity as a Member of this House....

Therefore Sir, under the Rules 222 and 223, I seek your protection and that of the House to bring charge of breach of privilege of Parliament against the Printer, Publisher and Editor of *The Current*, Weekly of Bombay."

2. The Speaker (Shri B.R. Bhagat) observed as follows:—

"In accordance with the rules of procedure on this matter and the normal practice too, I shall first direct the Printer, Publisher and Editor of this Paper, *The Current*, Weekly, to make their statement or report whatever it is, on this matter and after their report comes, I will bring this matter again to the House."

3. On the 30th August, 1976, the Speaker informed the House as follows:—

"The Editor, Printer and Publisher of *The Current Weekly* has in his letter dated the 25th August, 1976, stated as follows:—

I was extremely pained to learn that Shri N.K. Sinha, M.P. felt hurt about his photograph printed on the front page of *Current*.

Mr. Sinha is an outstanding public figure from Bihar and I have the good fortune of knowing him. The hon. Member is justified in raising the issue of privilege.

It was however, not our intention to defame him. His name is not mentioned anywhere in the story. Wherever, we mentioned the name of Mr. Nawal Kishore Sinha, Chairman of the Urban Bank we made it a point to add MLA to distinguish him from the aggrieved hon. Member.

The publication of Mr. N.K. Sinha's photograph was one of those queer incidents of journalism where a sub-editor uses his discretion late in the night to catch up with printing schedule.

I submit that great damage has nevertheless then done to Mr. N.K. Sinha, M.P. We did not have the slightest intention of involving him and we have no hesitation in expressing our regrets to the hon. Member."

4. After a brief discussion, during which Shri Nawal Kishore Sinha stated that he had also received a similar letter from the Editor of the Weekly, the Speaker observed as follows:—

"I think in view of this if the House agrees, we may ask the Editor, Printer and Publisher to publish his regret, the letter which he has written to me and the correction prominently on the front page of the next issue of *The Current Weekly*. Thereafter, the matter may be treated as closed."

5. The Editor, Printer and Publisher of *The Current* published his regret and correction on the front page of *The Current* in its issue dated the 4th September, 1976. Thereafter, the matter was treated as closed.

460
LOK SABHA
(1977)

Point of privilege

Alleged insinuation against a Minister by a partner of a firm in a letter to a newspaper

Facts of the case and reference to the Committee of Privileges

On the 11th July, 1977, Shri Jyotirmoy Bosu, a member sought to raise a question of privilege against Shri Kishore J. Tanna, a partner of M/s. Jamnadas Madhavji and Co., Bombay for

making alleged insinuations in a letter to the Editor published in the *Times of India*, New Delhi, dated the 11th July, 1977, in respect of a statement made by the Minister of Commerce and Civil Supplies and Cooperation (Shri Mohan Dharia) in Lok Sabha on the 27th June, 1977, during the discussion on Demands for Grants of the Ministries of Commerce and Civil Supplies and Cooperation. While raising the question of privilege, Shri Jyotirmoy Bosu stated *inter alia* as follows:—

"Shri Kishore J. Tanna of Jamnadas Madhavji and Company, Bombay, one of the firms against whom serious charges of economic offences and malpractices have been correctly levelled has written a letter to the Editor of the *Times of India* and got it published in the issue today. The relevant portion which is related to my privilege motion reads as follows:—

"While we do not mind any enquiry against us we feel that the official action in publishing the names of the firms without any proved charge against them is unfair. It seems to be a politically motivated cheap gimmick."

This refers to the reply the Commerce Minister, Shri Mohan Dharia, gave in response to my compelling insistence on the floor of the House during the debate on the demands of the Ministry. He did not do it *suo motu*. I also gave a notice to the Lok Sabha and also wrote to the Minister insisting to get fullest details about the criminal mis-appropriation of our precious foreign exchange of about 600 crores of rupees by 13 firms dealing in oils. In the list of names this firm's name should also be seen.

The unwarranted criticism and insinuations made in the letter under reference clearly amounts to a breach of privilege of the House where it is the right of the House to get fullest details on matters of public importance and, therefore, this action is motivated and deliberate. The writer of this letter has shown contempt of the House and for this serious misdeed, he should be brought to book immediately and that could be done by referring the matter to the Privileges Committee unless of course, they tender unconditional apology and get it published for three consecutive days within a fortnight from the date of this letter."

The Deputy Speaker, who was then in the Chair, thereupon, observed that he was considering the matter and that he would bring it before the House next day.

2. On the 12th July, 1977, the Deputy Speaker (Shri Godey Murahari) informed the House as follows:—

"I am referring this matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report."

Findings and recommendation of the Committee

3. The Committee of Privileges, after perusing the written statement submitted by Shri Kishore J. Tanna of M/s Jamnadas Madhavji and Co. Bombay, in their First Report, presented to the House on the 14th November, 1977, reported as follows:—

- (i) "Shri Kishore J. Tanna of M/s. Jamnadas Madhavji and Co., Bombay, who was asked by a letter to state for consideration of the Committee what he might have to say in the matter of the complaint against him submitted a written statement in which he stated *inter alia* as follows:—

'At outset I wish to state that I realised the gravity of my observations in the letter sent to press only when I received your letter. I or my firm had no intention at any time to question the right or authority of Government of India, or of the Parliament to discuss the matters or expressing their opinion about our firm. I and my firm hold the Parliament in the highest esteem, as the Parliament is a protector of our liberty and repository of our sovereignty.

* * *

While acknowledging the error in the expressions, I offer my unqualified apology to the Hon. Committee of Privileges. I am sorry that the letter contained certain motivation which I never intended to reflect on either the august Parliament or any of the Hon. Members. It was really a cry of certain anguish and pain and not a shout of studied malice prompted by any intent.

I wish to add further that if the Hon. Members of the Privileges Committee desire, they can call me before them and I will orally express my sincere and unqualified apology."

* * *

- (ii) "The Committee are of the view that the unqualified apology tendered to the Committee by Shri Kishore J. Tanna, may be considered a sufficient and adequate and that no further action need be taken by the House in the matter."

"The Committee recommend that no further action be taken by the House in the matter and it may be closed."

Action taken by the House

4. No further action was taken by the House in the matter.

461
LOK SABHA
(1977)

Point of privilege

Alleged reflections on and attributing motives to a Minister in a press statement in respect of certain statements made by the Minister in House

Facts of the case and reference to the Committee of Privileges

On the 16th July, 1977, Shri Gauri Shankar Rai a member sought to raise a question of privilege against Shrimati Indira Gandhi, former Prime Minister of India, for issuing a press statement reported in the *Hindustan Times* dated the 16th July, 1977, containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statement made by him in Lok Sabha on the 13th and 14th July, 1977 about the thinking of the previous Government during emergency to kill top opposition leader in jail.

2. The impugned press statement of Shrimati Indira Gandhi read *inter alia* as follow:—

"However, I find that some leaders of the Janata Party Government are determined to pursue their smear campaign of character assassination inside and outside Parliament so as to denigrate not only me but the Congress Party as a whole. The Home Minister's recent statement about an alleged plan (or "thinking") in my Government to shoot down leaders of the Opposition in jail is shocking and pre-posterous and has no basis whatsoever. This is the very limit in malicious propaganda deliberately carried on by some leaders of the Janata Party. It is difficult to see how anyone could rationally jump to such

a wild conclusion on the basis of the theoretical and hypothetical arguments advanced by Mr. Niren De in the Supreme Court to the consequences following from the presidential orders under Article 359. Nothing of this nature was remotely contemplated. The whole idea is outrageous and could occur only to one who himself thinks along these lines. It is one more instance of the type of misrepresentation and insinuation which are current these days. In fact, Mr. Jayaprakash Narain, Mr. Vajpayee, Mr. Charan Singh himself and other prominent leaders were allowed out on parole on information of ill health."

3. While raising the matter in the House, Shri Gauri Shankar Rai stated *inter alia* as follows:—

"Shrimati Indira Gandhi ex-Prime Minister in a statement to the Press which is published today has commented on the speech of the hon. Home Minister inside the House in a most contemptuous manner and has insinuated the House. She has imputed motives also. It is a clear breach of privilege and contempt of the House because contempt of a member of the House is contempt of the House itself.

In her statement she has said:

"However, I find that some leaders of the Janata Party Government are determined to pursue their smear campaign of character assassination inside and outside Parliament so as to denigrate not only me but the Congress Party as a whole. The Home Minister's recent statement about an alleged plan (or thinking) in my Government to shoot down leaders of the Opposition in jail is shocking and preposterous and has no basis whatsoever. This is the very limit in malicious propaganda deliberately carried on by some leaders of the Janata Party."

At another place she says:

"The whole idea is outrageous and could occur only to one who himself is thinking along these lines. It is one more instance of the type of misrepresentation and insinuation which are current these days."

4. The Deputy Speaker (Shri Godey Murahari) who was in the Chair observed that he would give his ruling on the matter on Monday, the 18th July, 1977.

5. On 18 July, 1977, the Deputy Speaker informed the House:—

"I am referring this matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report."

Findings and recommendation of the Committee

6. The Committee of Privileges, after hearing Shri Gauri Shankar Rai, M.P. in person and considering two written statements submitted by Shrimati Indira Gandhi on the matter, in their Second Report, presented to the House on the 1st March, 1978, reported *inter alia* as follows:—

(i) "Shrimati Indira Gandhi, who was asked by the Committee to state what she might have to say for the consideration of the Committee, in her reply dated the 16th September, 1977, stated as follows:—

"At the sitting of the Lok Sabha on July 13, 1977, the Home Minister made a very serious allegation that there was a plan (Vichar) during the Emergency to shoot down top leaders of the Opposition. The allegation received wide and prominent publicity both in the Press and through other media. On the following day, the Leader of the Congress Party in the Lok Sabha (Leader of the Opposition), who was a senior colleague of mine in the previous Government raised the matter in the House and drew attention to what he described as 'tendentious and malicious' nature of the Home Minister. He further submitted that 'such statements are made only with a view to bring our party into disrepute', and made an appeal to the Prime Minister and the Home Minister to substantiate it if they had got any evidence, or to kindly withdraw it. The Home Minister however reiterated the statement made by him on the previous day.

Keeping in view the great harm and damage the Home Minister's allegation was likely to cause to the integrity of the Government which I had the honour to lead as Prime Minister, I felt that I owed a duty to tell the public that the allegation had no basis whatsoever. This became all the more necessary in the context of the stand taken by the Home Minister even after Shri Chavan, the Leader of the Opposition had raised that

in the House.

In making the public statement which has been made the subject-matter of the privilege notice, I would submit that it was never my intention to show any disrespect to the Lok Sabha or to any of its members nor to cast any aspersions or insinuation. My statement came out of a genuine feeling of anguish and deep conviction that what I was stating was the truth and if such serious allegations are made in Parliament and they go uncontroverted, they may tend to denigrate and destroy our political system and democratic functioning. I would like to assure the Committee and through it the House that I did not mean any words or expressions used in my statement to cause an affront to the dignity and respect due to the Lok Sabha or to any of its members. I have had the honour to be a member of Parliament for over 12 years, and, of these, I was the Leader of the Lok Sabha for 10 years. Throughout this period, it has been my endeavour at all times to uphold the high dignity and prestige of Parliament and the rights and privileges of its members. My respect and esteem for Parliament and Parliamentary functioning will always remain a most cherished possession in my public life."

(ii) "The Committee gave a careful consideration to the position stated by Shrimati Indira Gandhi in her letter dated the 16th September, 1977. The Committee were not, however, quite satisfied with the explanation given by her aforesaid letter. The Committee, therefore, decided that before taking any decision on the matter, she might be given an opportunity to appear before the Committee personally to elucidate or to say anything further on the matter if she so desired.

(iii) "In response to the Chairman's letter to her, Shrimati Indira Gandhi in her letter dated the 12th December, 1977, stated as follows:—

"I thank you and the Committee for having provided me with an opportunity of explaining my case. However, owing to prior commitment, I am unable to avail of it.

I need hardly assure you that I did not

mean any disrespect for Parliament by my impugned statement. As I have stated earlier I have too deep a respect for this great institution of which I have had the privilege of being a member for a number of years, to say anything in disparagement of it."

(iv) "The Committee consider it unfortunate that Shrimati Indira Gandhi, in her impugned Press statement issued on the 15th July, 1977, should have, referred to Parliament while alleging a 'smear campaign of character assassination inside...Parliament.....'. It is also regrettable that she attributed motives to the Home Minister by referring to his statement in Lok Sabha as 'This is the very limit in malicious propaganda deliberately carried on'."

(v) "Shrimati Indira Gandhi in her first written statement dated the 16th September, 1977, submitted to the Committee stated that her impugned Press statement 'came out of a genuine feeling of anguish and deep conviction that what I was stating was the truth and if such serious allegations are made in Parliament and they go uncontroverted, they may tend to denigrate and destroy our political system and democratic functioning'. She also stated that 'I have had the honour to be a member of Parliament for over 12 years, and, of these, I was the Leader of the Lok Sabha for 10 years'."

(vi) "The Committee are of the opinion that every citizen has the right of free and fair comment on the proceedings of the House and the statements and speeches of individual members and to deny or controvert any charges made against him or her as well as to clarify his or her position if so involved. But if the language of the comments or criticism casts reflections on, or attributes motives to a member in respect of his speech or conduct in the House. It would constitute a breach of privilege because of the fact that the Constitution has conferred certain privileges on Members of Parliament in respect of their speeches in the House. If any such comments, exceed the limits of reasonable clarification or justifiable criticism or fair reply, they would infringe the privileges of the House and its members."

(vii) "The Committee are of the view that in order

to safeguard the rights, dignity and authority of the House, it is of utmost importance that a person like Shrimati Indira Gandhi, who enjoyed the highest position of authority in Government and a pre-eminent position in Parliament, should have exercised the greatest restraint in expressing her reaction and views on proceedings of Parliament and the statements or speeches of individual members in the House, howsoever provoked she might have felt by such proceedings or statements."

- (viii) "The Committee have carefully considered the import and implications of the remarks quoted in paragraph 6 (iv) above from the impugned Press statement of Shrimati Indira Gandhi and are of the opinion that those remarks cast aspersions and attribute motives tending to undermine the dignity and authority of Parliament—and thus, strictly construed, they amount to a breach of privilege and contempt of the House."
- (ix) "The Committee however note that Shrimati Indira Gandhi in both the written statements submitted by her to the Committee, has disclaimed any intention to show any disrespect to the Lok Sabha or to any of its members nor to cast any aspersions or insinuation. She has assured the Committee that she did not mean 'any disrespect for Parliament by my impugned statement' or 'to cause an affront to the dignity and respect due to the Lok Sabha, or to any of its members'."
- (x) "However, the Committee do not feel fully satisfied by the explanation of Shrimati Indira Gandhi. They, therefore, deprecate her regrettable remarks referred to in paragraph 21 (iv) above as contained in her impugned statement. The Committee further consider it necessary particularly to caution her to be more careful in future in her comments on the proceedings of the House or on speeches of members in the House. Considering, however, the totality of the circumstances of the case, the Committee are of the view that the matter need not be pursued further."
- (xi) "The Committee recommend that further action in the matter may not be taken by the House and the matter be dropped."

7. Four members of the Committee submitted a

separate note disagreeing with the findings of the Committee, which was appended to the Report of the Committee.

Action taken by the House

8. On the 3rd March, 1978, Shri Jyotirmoy Bosu, a member, moved the following motion which was adopted by the House.

"That this House do consider the Second Report of the Committee of Privileges presented to the House on the 1st March, 1978."

9. Shri Ravindra Varma (Minister of Parliamentary Affairs) then moved the following motion:—

"That this House do agree with the Second Report of the Committee of Privileges presented to the House on the 1st March, 1978."

10. Shri Jyotirmoy Bosu then moved the following motion:—

"Whereas the Committee of Privileges of Lok Sabha, in their Second Report, presented to the House on 1st March, 1978, feeling not fully satisfied by the explanation of Shrimati Indira Gandhi, have come to the conclusion that the remarks made in her Press statement issued on 15th July, 1977 'cast aspersions and attribute motives tending to undermine the dignity and authority of Parliament' and thus 'amount of breach of privilege and contempt of the House' and that she 'attributed motives to the Home Minister', a member of the House; this House do resolve that Shrimati Indira Gandhi be summoned at the Bar of the House and reprimanded by the Speaker for the breach of privilege and contempt of the House committed by her."

11. Shri C. M. Stephen, another member, moved the following amendment:—

"Having considered the Second Report of the Committee of Privileges presented to the House on the 1st March, 1978, and being of the view that the remarks quoted in paragraph 21 do not amount to a breach of privilege and contempt of the House, this House agrees with the recommendation of the Committee of Privileges."

12. Shri K. Lakkappa, another member, moved the following amendment:—

"Having considered the Second Report of the Committee of Privileges presented to the House on the 1st March, 1978, this House do resolve that no question of breach of privilege is involved in the matter against Shrimati Indira Gandhi and that this House agrees with the Note appended to the Report by four members of the Committee."

13. Shri B. P. Mandal, another member, moved the following amendment:—

"for the words

'reprimanded by the Speaker'

substitute

'convicted and sentenced to one day's imprisonment'."

14. Shri Kanwar Lal Gupta, another member, moved the following:—

"That the matter be referred back to the Committee of Privileges for re-consideration."

15. After some discussion, the following motion moved by Shri Ravindra Varma was adopted by the House:—

"That this House do agree with the Second Report of the Committee of Privileges presented to the House on the 1st March, 1978."

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LOK SABHA
(1978)

Point of privilege

Alleged casting of aspersions on a member by another member in a press statement regarding certain remarks made by the former in the House.

Facts of the case and ruling by the Speaker

On the 17th July, 1978, Shri K. P. Unnikrishnan, a member, made the following remark in the House during a discussion:—

"The Opposition Leader did not tell us the fact that his leader's emissary Shri Bansi Lal visited Shri Charan Singh. We are also entitled to know that."

2. On the 31st July, 1978, the Speaker (Shri K. S. Hegde) informed the House that Sarvasri Vayalar Ravi and K. P. Unnikrishnan had given

notices of a question of privilege against Shri Charan Singh former Minister of Home Affairs in respect of the following news report published in *The Times of India* dated the 9th July 1978:—

"Mr. Charan Singh said in a statement: 'Whatever Mr. Unnikrishnan, M.P. has said on the floor of Parliament regarding a recent meeting between me and Mr. Bansi Lal is, to put it moderately, a deliberate and mischievous statement.'"

3. Disallowing the question of privilege, the Speaker ruled as follows:—

"I called for the comments of Shri Charan Singh. In his letter dated July 25, 1978, Shri Charan Singh has indicated that according to him, the allegations made against him are unfounded and defamatory, and hence his spontaneous reaction to the same was rather sharp. Obviously, he felt that his political integrity was impugned by that statement and further the same cast a serious aspersion on the character of his politics. He has further stated that in addition to the statement of Shri K.P. Unnikrishnan, the fact that the Leader of the Opposition did not contradict it had added to the gravity of the charge against him. All these facts were given wide publicity.

Shri Charan Singh has further explained that in view of his illness, he was not in a position to attend the sitting of the House, and consequently he issued the statement in question. He ended his letter by saying that:—

"I would, however, like to make it clear that I had no intention of imputing any motive to the Hon'ble Member. But if an impression has been so created, I regret it.

Under the circumstances, I think I will not be justified in according my consent to the motions. This order should not be taken as a precedent. Any hon. member aggrieved by any observation in the House should explain his position in House.

In the result, I withhold my consent to the motions in question."

4. The matter was, thereafter, closed.

463

**LOK SABHA
(1978)**

Point of Privilege

Unfounded allegations made by a member against another member in the House and in a letter to the Speaker.

Facts of the case and ruling by the Deputy Speaker

On the 31st July, 1978, Shri Somjibhai Damor, a member, made the following statement in the House:—

"The Chairman of the House Committee has locked my house and I had to come here in the same clothes. I am going on a hunger strike today.

He is Brahmin, he gives to Brahmins, I belong to Scheduled Tribes and therefore, he does not give to me. He has regularised the cases of all Brahmins, I belong to the other party, why has he not given to me? I spoke to the Prime Minister also. This is truth. Tell the Chairman. Chairman does not listen to me, I have written to him many times."

2. On the 3rd August, 1978, Pandit D.N. Tiwary, M.P., Chairman, House Committee gave notice of a question of privilege against Shri Somjibhai Damor for making the above allegations against him in the House and also for making the following allegations in a letter dated the 31st July, 1978 addressed by Shri Somjibhai Damor to the Speaker:—

"But as I belong to Scheduled Tribes, the Chairman was against the allotment of this quarter to me. I feel pains to note that houses are allotted to Brahmins and high cast Hindus immediately on application and we people are discriminated."

3. On the 29th August, 1978, the Deputy Speaker (Shri Godey Murahari) informed the House as follows:—

"Shri Somjibhai Damor was requested to furnish his comments on the matter and either to substantiate the allegations made by him or to express regret. Shri Somjibhai Damor in his reply dated the 23rd August 1978, has stated:—

"In this regard, I express my unqualified regrets to you and also to Chairman of the House Committee."

"in view of the unqualified regrets expressed by Shri Somjibhai Damor, if the House agrees, the matter may be treated as closed."

4. The House agreed and the matter was, thereafter, closed.

464

LOK SABHA

(1978)

Point of privilege

Allegations made by a member against another member and a Parliamentary Committee, in the House.

Facts of the case and reference to the Committee of Privileges.

On the 31st July, 1978, during the discussion on a point of order regarding reported eviction of families of two Members of Parliament, Shri Lalji Bhai, a member, made certain allegations against Shri Sher Singh, another member and the House Committee. The Speaker, (Shri K.S. Hegde), thereupon, observed *inter-alia*, as follows:—

".....Certain serious allegations have been made. I would look into the record and certainly see whether it offends Rule 380. If it offends Rule 380, I shall completely expunge it... I am going to look into the matter and if the hon. Member has the courage, he must give his complaint and I shall appoint a committee of the House to go into the matter and if the allegation is proved, I shall remove every member of the House Committee. If the allegation is not proved, I shall charge him with contempt of the House and send it to the Privileges Committee."

2. Subsequently, the Speaker expunged the allegations made by Shri Lalji Bhai from the proceedings of the House. Shri Lalji Bhai was also asked under Speaker's direction to detail and substantiate the allegations made by him. As no reply was received from Shri Lalji Bhai despite repeated reminders, the Speaker referred the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha on the 2nd September, 1978.

3. The Committee, after examining Shri Lalji Bhai presented their Report¹ to the Speaker on the 23rd April, 1979.

Action taken by the House

4. On the 26th April, 1979, the Speaker informed the House, *inter-alia*, as follows:—

"The Committee of Privileges in their Report submitted to me have reported that 'during his evidence before the Committee, Shri Lalji Bhai expressed his regret and tendered apology for his impugned remarks in Lok Sabha on 31st July, 1978'.

The Committee have also expressed the view that 'the freedom of speech in Parliament under Article 105 of the Constitution should not be misused by a member for making unsubstantiated allegations of defamatory or incriminatory nature against any person', and that 'the Committee consider it very unfortunate and regrettable that Shri Lalji Bhai chose to make unsubstantiated allegations of a serious nature against another member and a Committee of the House in a rather very casual manner. The Committee have added that they 'deprecate this regrettable action of Shri Lalji Bhai'. However, in view of the regret expressed and apology tendered by Shri Lalji Bhai, M.P., before the Committee, the Committee have recommended that 'no further action need be taken in the matter' and that 'the matter may be dropped.'

If the House agrees, the matter may be treated as closed."

5. No further action was taken in the matter by the House.

465

LOK SABHA
(1978)

Point of privilege

Alleged criticism of the conduct of certain members in the House in the meeting of a Parliamentary Party Executive.

Facts of the case and ruling by the Speaker

On the 4th August, 1978, Shri C.K. Chandrappan, a member, gave notice of a question of privilege against the Janata Parliamentary

Party Executive and its leader, Shri Morarji R. Desai (Prime Minister) for criticising the conduct of Sarvashri Raj Narain and Mani Ram Bagri, members, in the House, in a meeting of Janata Parliamentary Party Executive held on 1st August, 1978. In this connection, Shri Chandrappan referred to the following news report published in the 'Patriot' dated the 2nd August, 1978:—

"Former Health Minister Raj Narain's conduct in Lok Sabha on Monday on the issue of the eviction of an M.P. from a bungalow came in for sharp criticism at the meeting.....the Executive is also learnt to have deplored the conduct of Mr. Mani Ram Bagri, a close associate of Raj Narain for raising the issue....Strongly disapproving such behaviour Prime Minister Morarji Desai is learnt to have given the full background of the incident."

2. On the 7th August, 1978, when Shri Chandrappan sought to raise the matter in the House the Speaker (Shri K.S. Hegde) ruled as follows:—

"I have disallowed it....Normally the parties have the right to issue instructions. That is the basis of issuing whips. I have disallowed it.....Democratic functioning is within party limits....."

3. The matter was, therefore, closed.

466

LOK SABHA
(1978)

Point of privilege

Alleged infringement of the rights of members by Council of Ministers in seeking the advice of the Supreme Court under article 143(1) of the Constitution on a Bill introduced by a member in the House.

For details of the case please see summary No. 160 at p. 336 *ante*.

¹The Report of the Committee of Privileges was presented to the Speaker. It was not laid on the Table of the House.

467
LOK SABHA
(1978)

Point of privilege

Alleged misrepresentation and casting aspersions on members regarding the proceedings of the House by a newspaper

for details of the case pleased see summary No. 315 at p. 468-469 ante.

468
LOK SABHA
(1978)

Point of privilege

Alleged casting of aspersions on members by a weekly magazine in its editorial passage.

Facts of the case and ruling by the Chair

On the 15th November, 1978, Shri P. Venkatasubbaiah, a member, gave notice of a question of privilege against the Editor and Publisher of the *Illustrated Weekly of India*, for publishing an editorial passage captioned 'Pensions for MPs' in its issue of November 5—11, 1978, which allegedly contained 'certain disparaging remarks against all the M.Ps. and Parliament'. Shri Venkatasubbaiah, in his notice, stated, *inter-alia*, as follows:—

".....You will appreciate from the extract that the Editor and Publisher of the said Weekly have knowingly and willingly brought down the prestige of M.Ps. and also the dignity of Parliament....."

2. The impugned editorial passage read as follows:—

"I am not particularly impressed by the calibre of our M.Ps. and it is anybody's guess how they got into Parliament—and at what cost and how they have maintained themselves during their tenure in Delhi. There might have been a time in the long dead past when citizens considered serving in Parliament a truly personal sacrifice, as in some instances it was. But today's breed is of a different order. Most of today's MPs are professional politicians who know how to take care of themselves and I don't see why the great public should take care of them in their old age. In what sense do they earn our gratitude?

Parliament's lead, I am sorry to say, has set a bad

example to the States, one of which, Haryana, has so amended legislation that a legislator can qualify for a life pension even if he has served for a day. Now is not that nice? I suppose very soon we will have municipalities passing resolutions that would provide councillors a neat bundel at the end of their term. When will this *tamasha* stop?"

3. On the 22nd December, 1978, when Shri Venkatasubbaiah sought to raise the matter in the House, the Speaker (Shri K.S. Hegde) ruled *inter alia*, as follows:—

"In regard to the article in the *Illustrated Weekly*, in view of the unconditional apology tendered by the Editor and Publisher, the matter may be dropped....I will direct him to publish it."

4. Accordingly, the Editor of the *Weekly*, Who was asked to publish his apology prominently in the next issue of the *Weekly*, published the following apology in the *Illustrated Weekly of India*, dated January 21—27, 1979:—

"AN APOLOGY

Editorial in 'THE ILLUSTRATED WEEKLY OF INDIA' Vol. XCIX 42 November 5— 11, 1978, page 37, column three, paras 3rd and 4th.

A notice of question of privilege had been issued by an MP on my above-mentioned editorial suggesting that one paragraph in the editorial was highly derogatory to the members of Parliament.

On receipt of the notice from the Lok Sabha Secretariat, I had reiterated that we hold Parliament in the highest esteem and no reflection was intended on any Member of Parliament. However, since the Hon'ble Speaker feels that one paragraph in the editorial appears to be highly derogatory to the Members of Parliament, I unconditionally apologise to the Hon'ble Speaker and to the Hon'ble House for an unintentional lapse on my part in the said editorial—Editor."

6. The matter was, thereafter, closed.

469
LOK SABHA
(1978)

Point of privilege

Aspersions on a member in a newspaper in respect of his speech in the House

Facts of the case and ruling by the Speaker

On the 22nd December, 1978 the Speaker (Shri K. S. Hegde) informed the House as follows:—

“Dr. Subramaniam Swamy had given notice of a question of privilege against Shri Nikhil Chakravorty Member of Press Commission and Editor of the *Mainstream* and the Editor of the *Patriot* for publishing in the *Patriot* dated the 8th December, 1978, Shri Nikhil Chakravorty's remark that Dr. Subramaniam Swamy had made a scurrilous allegation against Shri Nikhil Chakravorty in the House.

Shri Nikhil Chakravorty as well as the Editor of the *Patriot* have both sent their letters of apology for using and publishing the remark ‘scurrilous allegation’ in reference to Dr. Subramaniam Swamy.

In view of the apology tendered by both of them the matter may be treated as closed.”

2. No further action was taken in the matter by the House.

470
LOK SABHA
(1979)

Point of privilege

Alleged derogatory remarks about members and the House made by the Speaker, Lok Sabha, while delivering a speech on the ‘Role of Legislature under the Constitution.’

Facts of the case and ruling by the Speaker

On 16th May, 1979, the Speaker (Shri K.S. Hegde) informed the House as follows:—

“Hon. member, Shri P.M. Sayeed, has given notice under Rule 222 against me in respect of a speech delivered by me on the 12th of this month under the auspices of Vasant Vyakhyanamala at Pune. Shri Mohd. Shafi Qureshi, has also written a letter to me in that connection. The subject of my lecture was ‘The Role of Legislatures under our

Constitution’. The basis of the notice is the report of the speech appeared in *Times of India* dated May 14, 1979.

It is embarrassing to be a judge in one's own cause. But an analysis of the rules and the examination of the precedents leave me with no other alternative.

Under the existing rules it does not appear to be possible to move a motion under Rule 222 against a Speaker. It is well established parliamentary practice that the conduct and action of the Speaker ‘cannot be criticised incidentally in debate or upon any form of proceedings except on substantive motion.’

But all the same, I would like to place before the House the correct facts to remove any misunderstanding that might have been created by the report in the *Times of India*. My speech lasted for more than one hour. It covered a large area. The paper reporting is sketchy. Ideas have been picked up at random by the reporter and he has used his own words for conveying my ideas. This has given room for certain misunderstanding.

Shri Vithalrao Gadgil, Member of Rajya Sabha, presided over the meeting. In his introductory remarks, he formulated certain issues and invited me to deal with them. Two of the issues formulated by him were:

- (i) The existing legislative process and the changes required;
- (ii) Does the Parliament effectively oversee the work of the executive?

I detailed the legislative fields falling within the purview of the Parliament and the corresponding executive functions. I expressed my opinion that the legislative burden of the Parliament should be reduced, if the Parliament is to work effectively and the members are to oversee the work of the Executive carefully, I suggested that subjects which are primarily within the responsibility of the State Legislatures must be discussed in the State Legislatures themselves, I explained that law and order is primarily a State subject. The responsibility of the Centre is only secondary and when that subject is discussed in the Parliament, the Central Government generally present the viewpoint of the State Government. That being so, the law and order issues, however grave they may be, are

desirable to be discussed in the State Legislatures. This has always been my view and I have discussed this problem with the Leaders of the Parties/Groups at the meetings held. Some members might take a different view. But an expression of my view would not amount to a breach of privilege of the House or any of its members. In all these matters difference of opinion is bound to be there.

Thereafter, I took up the question of the procedure adopted in the matter of legislation. I expressed my dissatisfaction with the existing procedures and I commended the Committee system. In the course of my lecture. I told the audience that legislations are conceived and Bills prepared by the concerned Ministries. The policy underlying a legislation is discussed by the Cabinet but it is likely that Cabinet would not go into details of the legislation which sometimes are as important as the policy itself. I also criticised the procedure of having three Readings in the House.

Coming to the debate on the legislations, I mentioned that members, by and large, are interested in some subjects and not in all subjects. In the very nature of things it is not possible for the members to know about every subject. Hence, large sections of the House would not take special interest in most of the legislations. This is so in all countries having the parliamentary form of Government. I even gave the example of Britain. This state of things facilitates the Government to push through its legislation without difficulty. If on the other hand, every Bill is sent to a House Committee consisting of members interested in the legislation or who have specialised in that subject, then there will be a thorough and searching examination of the measures and the Government will have to justify not merely the policy underlying the Bill but also various other aspects. I did not use the words 'at present the members of Parliament did not understand the implications of legislations brought before them by the Government reported in the *Times of India*. On the other hand, I mentioned that some members take interest in questions, some in Committees, yet others in various subjects. My criticism was not of the Parliament or of its members but of the existing system prevailing not only in this country but in several other countries including Great Britain. I therefore

referred to those countries also, I decline to accord my consent to the motion."

471

LOK SABHA

(1980)

Point of privilege

(i) *Alleged misleading information given to the House by Ministers regarding the reported arrest of a police officer;*

(ii) *Alleged derogatory reference to Parliament made by chief Minister during his press conference when a privilege matter was pending before the House.*

For details of the case pl. see summary No. 255 at pp. 400-02 ante.

472

LOK SABHA

(1981)

Point of privilege

Allegation against a member by a member of the other House.

Facts of the case and ruling by the Speaker

On 27th March, 1981 Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

"Shri Mani Ram Bagri has drawn attention through a notice under Rule 222 to the allegations made in the other House about a member of our House having evaded custom duty, thereby lowering the dignity of this House.

I have carefully gone through the proceedings of Rajya Sabha and I find that both the allegation's and the name of the Members were withdrawn by the Member concerned and the name was also expunged by the Chairman. There is, therefore, hardly any matter to proceed under Rule 222 and I am, therefore, unable to give my consent under that Rule."

The matter was, thereafter, closed.

473

LOK SABHA

(1981)

Point of privilege

Certain observations made about a member (Minister) in the other House by the Chairman.

Facts of the case and ruling by the Speaker

On 27th March 1981. Shri Atal Behari Vajpayee, Prof. Madhu Dandavate and Shri Mani Ram Bagri, members, gave separate notices of a question of privilege against the Minister of State in the Department of Science and Technology (Shri C.P.N. Singh) regarding certain observations made about him by the Chairman, Rajya Sabha on 26th March, 1981 in that House. The Chairman Rajya Sabha, while giving his ruling on a question of privilege against Shri C.P.N. Singh, given notice of by some members of Rajya Sabha, had observed, *inter alia* as follows:—

"Hon, members will recall that I had sent a matter of privilege raised by Shri Era Sezhiyan and Shrimati Margaret Alva against Shri C.P.N. Singh, Minister of state for defence, to the Committee of Privileges. They will also recall that Shrimati Alva on 12-8-1980 made a statement alleging certain things against the Minister. The gist of it was his dealing with one Michele.....Shri Singh asked for an opportunity to give a personal explanation and in his explanation included a counter-charge against Shrimati Alva for which he said he had evidence in his possession. His allegation was that Shrimati Alva had herself tried first to get in touch with Michele on phone in London and later he had a telephone conversation with her from London on her return to New Delhi....The privilege motion followed on the ground that the Minister had deliberately made a misleading statement about Shrimati Alva's attempt to ring up Michele in London and a challenge was thrown that he should substantiate the truth of his statement that he had evidence in his possession."

"I referred a special issue to the Privileges Committee for a finding because the Minister is not a Member of this House but of the Lok Sabha and if the finding was adverse to the Minister. I would have had to consider the next step. The issue I raised was:

"Is the statement made by the Minister in the House supported by the evidence or not or was it a misleading statement?"

"The finding of the Privileges Committee is that Shri Singh made his statement on the strength of a document in his possession, which I find is a

letter from Michele, and that he did not deliberately make a statement in the House which he knew or had reason to believe was misleading."

"I am also of opinion, on an examination of dates, etc., that Shrimati Alva's statement is absolutely truthful and there is no stain on her integrity. The Committee has also given the same finding. I also agree that the Minister himself was misled by Mr. Michele and should not have made this counter-charge on such doubtful evidence".

2. On 27th March, 1981, when the members sought to raise the matter in the House' the Speaker (Shri Bal Ram Jakhar) observed as follows:—

"I have carefully gone through the proceedings of Rajya Sabha. If the recommendations of the Committee of Privileges of Rajya Sabha and the observations of the Chairman of the other House are read together, it is clear that the Minister was found to have the evidence on the basis of which he had chosen to make the statement in the other House. The matter may be allowed to rest with that and need not be pursued further."

474

LOK SABHA

(1981)

Point of privilege

Reported statement by a Chief Minister regarding the policy of reservation for Scheduled Castes and Scheduled Tribes on which Lok Sabha had passed a Resolution unanimously.

Facts of the case and ruling by the Deputy Speaker

On 21st April, 1981, the Deputy Speaker (Shri G. Lakshmanan) informed the House as follows:—

"Sarvashri Mani Ram Bagri and Jaipal Singh Kashyap have given a notice of question of privilege against the Chief Minister of Gujarat for a reported statement by him that the policy of reservation being a matter of vital importance a Commission should be appointed to examine this issue. The Members have contended that as a unanimous resolution has already been passed by this House in favour of the policy of reservation, the reported statement of the Chief Minister, of Gujarat has lowered the dignity of the House.

I have considered the matter and I do not find anything derogatory to the House in the reported statement of the Chief Minister of Gujarat, which is based on a newspaper report only. Moreover, the Chief Minister of Gujarat is a Member of another Legislature and according to well-established practice, a question of privilege may not normally be raised against him in this House.

I do not, therefore, give my consent to raise the matter under rule 222".

The matter was thereafter, closed.

475

LOK SABHA

(1981)

Point of privilege

Alleged derogatory remarks about members of Parliament by the Chief Justice and another judge of the Supreme Court during the proceedings in a case.

Facts of the case and ruling by the Speaker

On 8th May, 1981, the Speaker (Dr. Bal Ram Jakhar) gave the following ruling:—

"Sarvashri Ram Vilas Paswan, K. Lakkappa and Rajesh Kumar Singh have given notices of a question of privilege against the Chief Justice of India, Shri Y.V. Chandrachud and another Judge, Shri V.D. Tulzapurkar for allegedly making the following remarks as reported in a newspaper report, during the proceedings on a case in the Supreme Court:

'.....those who address the nation in Parliament do so with an equal sense of responsibility.....Just because they are in Parliament they can say anything they like because they are immune....they are supposed to be enlivening the debates of the House by saying that all that judges do is to sit back in their chairs.'

A factual note was called for from the Ministry of Law and they have furnished the same after getting it from the Registrar of the Supreme Court. I have also gone through the Lok Sabha proceedings where an Hon'ble Member had referred in pointed terms to the performance of the Supreme Court.

While Members of this House enjoy freedom of speech as enshrined in the Constitution, we have to remind ourselves that it has to conform to the Rules of Procedure and Conduct of Business in Lok Sabha

as well as the restrictions which are mentioned on discussion in Parliament on certain matters. I would like to recall in this context Article 121 of the Constitution which specifically provides that 'no discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided'.

The Constitution has allotted specific duties and responsibilities to Parliament as well as to the Supreme Court and the High Courts and we have to have mutual respect for each other. It would be in the best interests if democratic norms and traditions set down in the Constitution are meticulously observed and those connected with these institutions do not over-step their limits, so that the ideal concept enshrined in the Constitution remains a living reality and does not become an illusion.

I have no manner of doubt that with the strong tradition of democracy laid down in our country these institutions would supplement and complement each other and become a source of strength to the nation as a whole."

The matter was, thereafter, closed.

476

LOK SABHA

(1981)

Point of privilege

Certain remarks made in the House by a member regarding alleged passing on of certain information by him to a foreign country

Facts of the case and ruling by the Speaker

On 8th May 1981, the Speaker (Dr. Bal Ram Jakhar) informed the House as follows:—

"Sarvashri Eduardo Faleiro, Rajesh Pilot, K.K. Tewari and Ashok Gahlot gave notices of question of privilege on 4 March 1981, against Shri Jyotirmoy Bosu for admitting in the House on 3 March, 1981 that he had corresponded with the Minister of External Affairs and that 'he had released to the Chinese, the information obtained by him from the Minister' regarding the Mac Mahon Line border between India and China. Shri Kamal Nath also gave a similar notice subsequently.

The notices were referred to Shri Jyotirmoy Bosu under my direction requesting him to state what he might have to say in the matter. Shri Jyotirmoy Bosu

in his letter dated the 7 May, 1981, has *inter alia* stated that 'on the relevant day in the House when I said, "I did it", that was in the context that I did write a letter to the Minister of External Affairs as the Minister had not disclosed the name of the MP, who had written a letter to him seeking certain clarification on the point relating to Indo-China relations'.

Shri Jyotirmoy Bosu has also submitted a detailed note by way of personal explanation which he wanted to make in the House. I felt that as the matter was sought to be raised against him as a question of privilege, it would not be quite appropriate to allow him to make a personal explanation on the matter."

The personal explanation refers *inter alia* to some correspondence, which Shri Jyotirmoy Bosu had with the Minister of External Affairs and, therefore, I asked for a factual note from the Minister of External Affairs which has been received this morning.

I am looking into the matter."

2. On 17th August, 1981, the opening day of the next session, the 'Speaker observed as follows:—

"During the last Session on 8 May, 1981, I had informed the House that Shri Jyotirmoy Bosu wanted to make a personal explanation in regard to the remark 'I did it' made by him on 3 March, 1981, in response to Shri Eduardo Faleiro's statement on that day that:

'a Member of Parliament wrote to the Minister of External Affairs mentioning that a Bengali author had prepared a plan showing a portion of India as part of China and asked the Minister of External Affairs as to what his reaction was....The Minister of External Affairs said we were aware of this matter; we are seized of it: it is under consideration. This member of parliament divulged this information to the Chinese Embassy and it got.....'

I had then observed that I had asked for a factual note from the Minister of External Affairs which had been received that morning and that I was looking into the matter.

In his statement of personal explanation, dated 6th May, 1981, Shri Jyotirmoy Bosu stated *inter alia* that:

'I wrote a letter to the Minister of External Affairs in the beginning of last year that articles have been written and published in important papers questioning the correctness of the present boundary line between India and China. This has come out publicly in a number of

publications more than once. On the basis of the above, I wrote to the Minister of External Affairs and also asked him on the floor of the House....as to what his comments were on the view expressed and facts published by the authors of the aforesaid publications. But it is regrettable that inspite of several reminders, the Minister has not given any reply to the points raised by me and in the articles mentioned above. This is what I conveyed to the House on 3rd March, 1981.' The Minister of External Affairs in his factual comments stated *inter alia* that:

Shri Jyotirmoy Bosu addressed a letter to me on the 12th March, 1980, in which he referred to certain published material which in his opinion cast some doubts on the position taken by the Government of India on the border between India and China. I sent a reply to him on March 27, acknowledging his letter and saying *inter alia*, that I would have the matter examined from the view point expressed in his letter. This was the only communication sent by me to Shri Bosu.....since the matter was of an extremely delicate nature, I did not sent any further written replies directly to him. While it is true that I did not sent a detailed reply to Shri Bosu on the points raised by him in his first letter of 12th March, 1980, It is the very acknowledgement letter sent by me on 27th March that seems to be what is alleged to have been divulged by Shri Bosu to the Chinese dignitary...Therefore, the fact that I did not send any subsequent detailed reply to Shri Bosu would not be relevant in the matter raised by Shri Faleiro.

Shri Bosu had also sent a correction on 6 March, 1981 for incorporation in the relevant debate dated 3 March, 1981, for adding some words in his recorded remarks 'I did it.....' to make it read as 'I did it in the sense, I wrote to the Minister but never got a reply.'

The addition sought to be made by Shri Bosu was checked with the reporter's copy as well as on the tape and it was held that such a substantial correction could not be permitted at that stage as per earlier rulings given by my distinguished predecessors: Mr. Speaker Mavanlankar on 17th February 1950, and Mr. Speaker Ananthasayanam Ayyangar on 19th February, 1959, to the effect that corrections at that stage are permissible only if these are grammatical or

of verbal nature and not of any material substance. Incidentally, this is also the practice in the House of Commons as ruled by Mr. Speaker Lowther on 6th April 1914 and, by Mr. Speaker Dougals Clifton Brown on 9th May, 1944.

The matter may now be treated as closed".

477

LOK SABHA

(1981)

Point of privilege

Alleged misleading of the House by a Minister, alleged casting of reflections on the Minister, by a journalist in an article published in a newspaper and alleged casting of aspersions on the House by a former member of Parliament

For details of the case please see summary No. 260 at pp. 405—09 ante.

478

LOK SABHA

(1981)

Point of privilege

Casting aspersions on a member by another member in a press interview

Facts of the case and ruling by the Speaker

On 4th December, 1981, Prof. K.K. Tewari, a member, gave notice of a question of privilege against Shri Atal Bihari Vajpayee, member, for allegedly casting aspersions on Dr. Subramaniam Swamy, another member in a press interview published in *Probe*, an English monthly, in its October, 1981, issue, which read, *inter alia* as follows:—

"Ever since then he has been carrying out this campaign against me. But I can't do the same thing to him, because I don't believe in character assassination. On the other hand if I were to stoop to Swamy's level I can do a lot of damage to him. As a former External Affairs Minister I know many things about Swamy. What if I call him a CIA agent? But I am not going to say all those things, because never in my political career have I indulged in mudslinging."

Prof. K.K. Tewari also sought to raise the matter in the House on 4th December, 1981 whereupon the Speaker (Dr. Bal Ram Jakhar)

observed that the matter was under his consideration.

2. On 16th December, 1981, when Shri K.K. Tewari sought to raise the matter in the House again, the Speaker observed as follows:—

"I have gone through it. That is not according to the rules.....I have not admitted it."

The Speaker, however, allowed Dr. Subramaniam Swamy to make a personal explanation on the next day.

3. On 17th December 1981, Dr. Subramaniam Swamy made the following personal explanation:—

"On 4th December, 1981 Prof K.K. Tewari, while seeking to raise a question of privilege against Shri Atal Bihari Vajpayee, a member of this House is on record and having stated *inter alia*:—

'I have given a notice under Rule 222 against Shri Atal Bihari Vajpayee who has called Dr. Subramaniam Swamy a CIA agent. He has based it on his knowledge as Minister of External Affairs. The *Probe* has published an interview of Mr. Vajpayee where Mr. Vajpayee says that Dr. Swamy is a CIA agent.'

The aforementioned statement of Prof. Tewari has received wide publicity in the Press and, therefore, as I mentioned in the House yesterday, it is not possible for me to remain silent lest it is misunderstood. I would like to state with all the strength at my command that I have no connection whatsoever with the CIA and the allegation made, implied or threatened, is without any basis whatever and is totally baseless and malicious.

I would like to reiterate that if Shri Vajpayee has any evidence about the alleged CIA connection, he should have the courage either to substantiate it or, in all fairness, withdraw it unequivocally and apologise to the House."

Shri Atal Bihari Vajpayee then made his personal explanation as follows:—

"Sir, what has been published as my interview in a journal from Allahabad has been referred to in the House first in a privilege motion against me by an hon.

member from the Treasury Benches and then in a personal explanation by an hon. member belonging to the Opposition.

The privilege motion was not admitted by you in your wisdom even though I would not have raised any objection if you had admitted it. Now, you have permitted the hon. member from Bombay (North East) to make a statement by way of personal explanation. It has often happened before, that when an allegation was made in the House by one member against another, the member accused would protest that the immunity provided by parliamentary privilege was being abused to malign him. The member making the allegation was challenged to make the statement outside the House and thus expose himself to the risk of defamatory proceedings.

This controversy is about a matter published in the press outside.

As I have already informed you. I have filed a complaint to the Press Council against the journal for publishing my so-called interview. The Press Council has been set up by an Act of Parliament and is presided over by a retired Judge of the Supreme Court. As the Council is seized of the matter. I do not wish to say anything further except that I have never believed in the politics of character assassination and during more than two decades of my parliamentary career I have tried my best to maintain a certain standard in my behaviour with regard to my colleagues.

It is open for the hon. member from Bombay (North East) to wait for the verdict of the Press Council or to approach a court of law to seek redress."

The matter was thereafter, closed.

479

LOK SABHA

(1981)

Point of privilege

Alleged misrepresenting the proceedings of the House and casting reflections on a member by a newspaper

For details of the case please see summary No. 320 at pp. 520—523 ante.

480

LOK SABHA

(1985)

Point of privilege

Describing the legislature as a branch of the Government in a text book published by the Maharashtra State Board of Secondary and Higher Secondary Education

Facts of the case and ruling by the Speaker

On 26th April, 1985, Prof. Madhu Dandavate, a member, gave notice of a question of privilege against the Secretary, Maharashtra State Board of Secondary and Higher Secondary Education. Prof. Dandavate stated in his notice *inter alia* that in a text book of Civics for Class X, published by the Maharashtra State Board of Secondary and Higher Secondary Education, the "Legislature" had been described as a "branch of the Government" and that the "three branches of the Union Government control each other". When these inaccuracies were brought to the notice of the Board through an article written by one Shrish Deshpande, which was published in the 16th January, 1985 issue of *Loksatta* the Secretary, Maharashtra State Board of Secondary and Higher Secondary Education issued a clarification which was published in the *Loksatta* in its issue dated 2nd March, 1985. Asserting that there was no mistake whatsoever in the text book of Civics.

Prof. Dandavate contended that it amounted to a breach of privilege and contempt of the House.

2. The Ministry of Education, to whom the matter was referred under the direction of the Speaker (Dr. Bal Ram Jakhar), clarified that a writ petition was filed in the Bombay High Court challenging the correctness of certain portions of the text book and the High Court after hearing the parties had *inter alia* recorded an order as follows:—

"It is contended on behalf of respondents that in the book the words and expressions are used in broader sense. However, since it is brought to the notice of the authorities, that it might create misunderstanding, in subsequent editions care will be taken to clarify the position, and use appropriate words."

It was also clarified by the Ministry that in pursuance of the order of the Bombay High Court, the Maharashtra State Board of secondary and Higher Secondary education had undertaken the work of revision of the text book suitably and it had

been decided that the revised text book will be prescribed from the next academic session.

3. On 17th May, 1985, the Speaker, informed the House that he had received a communication from the Ministry of Education stating that the text book was being revised and that the revised text book would be prescribed from the next academic session. In view of this he had not given his consent under rule 222 to raise a question of privilege in the House.

4. Prof. Madhu Dandavate thereupon urged the Speaker to make a reference to the order of the High Court and endorse the same. The Speaker observed as follows:—

"That is what I have done.....Parliament is supreme. There is no problem. We are separate....That is what I have up-held."

481

LOK SABHA

(1985)

Point of privilege

Alleged casting of reflections on the members, the House and its proceedings in an article published in a newspaper

Facts of the case and ruling by the Speaker

On 2nd December, 1985, Shri K.P. Unnikrishnan and Prof. Madhu Dandavate gave two separate notices of question of privilege against Shri R.N. Goenka, for allegedly casting reflections on members, the House and its proceedings of 26th November, 1985, relating to discussion on a motion under rule 184 about the removal of Shri Jagmohan from his office of Governor of Jammu & Kashmir, in an article published in the *Indian Express* in its issue dated 30th November, 1985.

2. Shri K.P. Unnikrishnan stated in his notice *inter alia* that in the article in question, the author has deliberately and wilfully attacked Minister of State for Law, Shri H.R. Bhardwaj and present Parliament. He has even made an insinuation about conduct of proceedings in Parliament which goes far beyond the right of free comment. Prof. Madhu Dandavate stated *inter alia* '.....it is not only showing contempt for the Minister but for Lok Sabha as well and that too deliberately'. Both the members alleged that Shri R.N. Goenka had committed a breach of privilege and gross contempt of the House. Speaker observed that he would look into the matter.

3. Giving his ruling in the matter on 3rd December, 1985, the Speaker observed:

"I have carefully gone through the article by Shri R.N. Goenka published in the *Indian Express* dated 30th November, 1985. I find that the tone and tenor in which the article is written is not becoming of a person who has himself been a member of this House and is well aware of its rights and privileges. In a democracy the Press has every right of fair criticism but it should not be used in a manner so as to put the institution of Parliament and its members into disrepute or lower their dignity in the eyes of the public.

It appears that in the heat of a controversy in which he himself was involved, Shri Goenka has over-reacted to the reply of the Minister of State in the Ministry of Law and Justice to the Discussion on the motion.

As the supreme representative institution of the people, this House has always shown its magnanimity and broad vision, particularly to the Press by not taking notice of critical comments made by them, in order that Parliamentary privilege in no way fetters or discourages the free expression of opinion of fair comments on the proceedings of the House. I feel that it adds to the dignity of one and all if power in a democratic system is exercised with restraint and the more powerful a body or institution is, the greater restraint is called for particularly in exercising its penal jurisdiction.

In keeping with this approach and best traditions of the House, I am of the opinion that this House would best consult its own dignity by taking no further notice of the matter.

I do not, therefore, accord my consent to the raising of the matter as a question of privilege".

482

LOK SABHA

(1986)

Point of privilege

Alleged attempt to malign some members by mentioning their names in a charge-sheet filed in Court by the police under the Official Secrets Act

Facts of the case and ruling by the Speaker

On 19th March, 1986, the Speaker (Dr. B.R. Jakhar) observed as follows:—

"On 13th February, 1986, I had received identical notices of question of privilege given by Sarvashri V. Sobhanadreeswara Rao and S.M. Bhattam against the then Minister of Home Affairs, Shri S.B. Chavan, for allegedly defaming some members of Parliament by insinuating that they had some association or links with the alleged spy Ram Swaroop, in the charge-sheet filed by the police in the Court under the Official Secrets Act. They had also stated that a wide publicity was given in the Press to the names of Members of Parliament mentioned in the charge-sheet as was evident from the news reports published in the *Times of India* dated 28th January, 1986 and other national dailies of 29th January, 1986. The members further pointed out that according to the impugned news report, 'Ram Swaroop mentioned to the police the names of some opposition leaders and members of Parliament stating that they were "Sympathetic to him at one stage or the other".' It is well known that in public life members of Parliament come in touch with many people on various occasions. To say that they were 'sympathetic' to Ram Swaroop, is, in members' words 'a motivated and mischievous effort to malign them and to lower the dignity of Parliament'.

Shri M. Raghuma Reddy gave an identical notice on 19th February, 1986.

I appreciated the strong feelings of the members whose names had figured in newspaper reports in connection with the espionage case and, therefore, when on 25th February, 1986, Shri V.S. Rao sought to raise the matter in the House, I observed, 'if the name of any member from this House has been mentioned, I will allow him (to make personal explanation).'

On 5th March, Sarvashri K.P. Singh Deo, D.P. Jadeja and Arvind Netam were afforded a special opportunity to make personal explanations in the House clarifying their position in the matter. They Stated, *inter alia*, that their names had been mentioned in the charge-sheet neither as accused nor as witnesses. A similar statement was made by Shri Chandulal Chandrakar on 11th March, 1986.

On 13th March, 1986, Prof. Madhu Dandavate gave a notice of question of privilege against the Minister of State in the Department of Internal Security, Shri Arun Nehru, for allegedly mentioning the names of Sarvashri K.P. Singh Deo, D.P. Jadeja, Arvind Netam and Chandulal Chandrakar in the charge-sheet filed against Ram Swaroop for his alleged espionage activities. Prof. Dandavate contended that though the names of the said members were associated neither as witness nor as accused in the espionage case, 'the manner in which their names were mentioned in the charge-sheet...has sought to tarnish the patriotic image of these members'.

Another honourable member, Shri Jitendra Prasada, also wrote to me on 31st January, 1986, drawing my attention to a report appearing in the *Statesman* dated 29th January, 1986 which falsely mentioned his name among those figuring in the charge-sheet filed by the police in the Ram Swaroop case. The report claimed that the charge-sheet had mentioned his name as 'the Chairman of the Indo-Federal Republic of Germany Parliamentary Body'. His denial in this regard was published by the paper in its issue of 1st February, 1986. Shri Jitendra Prasada has again written to me on 9th March, 1986, saying that the *Illustrated Weekly* in its issue of 2nd March, 1986, had carried an interview with the said Ram Swaroop in which he was quoted as saying that he (Shri Jitendra Prasada) also was a Convenor of the Indo-German Parliamentary Group. Shri Jitendra Prasada has pointed out that it is impossible for any member to keep track of all such news items and to issue contradictions in respect of each of them. Shri Jitendra Prasada has, however, enclosed a copy of the letter which he has sent to the Editor of the *Illustrated Weekly* denying that he had ever been Convenor of the said Indo-German Parliamentary Group or that he had ever attended any of its meetings. I regret very much that such reports should keep on appearing in the press even after they have been contradicted. I hope the press will be more cautious in this respect in future so that the names of members of Parliament are not unnecessarily dragged into controversial matters.

It is well established that in order to constitute a breach of privilege any libel or charge against

a Member of Parliament must concern his character or conduct in his capacity as a member of the House and must be 'based on matters arising in the actual transaction of the business of the House'. Moreover, I understand that the only accused persons in the case are Shri Ram Swaroop Sabharwal and Shri Javed Siddiqui and no charge have been laid against any other person. I am therefore, of the opinion that the mere mention of names of members in the charge sheet does not involve any breach of privilege or contempt of the House either on the part of the then Minister of Home Affairs or the Minister of State in the Department of Internal Security. Accordingly, I withhold my consent to the raising of the matter in the House under rule 222.

I must, however, add what I told the House on 5th March, 1986, and I reiterate that I am one with all the members of the House in upholding the honour, respect and dignity of the House and its members. As public men, members of Parliament have got to meet a large number of people either individually or at public functions. It is obviously impossible for them to check the antecedents of every individual or organisation that they come into contact with. To impute motives or *mala fides* to any such casual meeting, without sufficient proof, is reprehensible. What is still more reprehensible is to give publicity to unfounded allegations. In the interest of clean public life, it is necessary that such tendencies are firmly curbed. As upholders of public causes the press are our best ally and we cherish their freedom as much as we are zealous of our own rights as members of this august House. I have therefore, every hope that the press would function with caution and full sense of responsibility in such matters so that the prestige and dignity of this House and its members as also of the Press itself are maintained.

With these words of caution and in the context of the fact that the members concerned have already fully clarified their position on the floor of the House by way of personal explanation statements, I feel the matter should be treated as closed."

2. On 20th March, 1986, the Executive Committee of the Press Association adopted a resolution expressing their 'anguish' and 'distress' over certain observations about the Press made by the Speaker in his ruling on 19th March, 1986. The resolution termed the Speaker's observations as 'unfortunate'

and 'sweeping'. The General Secretary of the Press Association forwarded a copy of the resolution to the Speaker with a request to give them some time to meet him so that they could put forth their views in the matter.

The Speaker accordingly met them on 20th March, 1986, itself and allayed their misgivings in the matter.

3. On 21st March, 1986, a news-item appearing in the *Statesman* stated *inter alia* as follows:—

"The Lok Sabha Speaker, Mr. Balram Jakhar, meanwhile, clarified to a Press Association delegation that he had no intention of condemning or maligning the press in his ruling on Wednesday. He reiterated that he had stated in the House itself that 'the Press is a part of us.'

He said the only references to the Press were in the context of Mr. Jitendra Prasada's case wherein some allegations had been reprinted even after denial. In the concluding paragraph, he had referred to the reprehensible nature of giving publicity to unfounded allegations related to Mr. Prasad."

4. On the same day, Shri K.P. Unnikrishnan, a member, gave notice of a question of privilege against the President and the General Secretary of the Press Association and other members of the Executive Committee of the Press Association for allegedly commenting upon the ruling of the Speaker in their resolution which, according to the member, amounted to a breach of privilege and contempt of the House. Shri Unnikrishnan and some other members later sought to raise the matter in the House. Objection was also taken by Prof. Madhu Dandavate to the reported clarification given by the Speaker to the Press which he said, should have been given, if at all, inside the House and not outside the House. Speaker then observed as follows:—

"As you know, being the Speaker, I am accessible to every person and when any hon. member or public or even the Press come to me, I have to see them and I must see them...It was a question raised and in good faith. Everything was said on the floor of the House and at your intervention, I said that Press is one of us. There was no question at anytime in my mind to malign it...The Press and ourselves...we have to work hand in hand. We have always worked like that...So many

things have been said certain times and we have overlooked everything...But, when people come to me, naturally I have to see them they come and I must listen and talk and then everything is clarified. There is nothing wrong about it."

The matter was, thereafter, treated as closed.

483

LOK SABHA
(1989)

Point of privilege

Alleged reflections on a member by a newspaper

Facts of the case and ruling by the Speaker

On 1st March, 1989, the Speaker (Dr. B.R. Jaxhar) observed *inter alia* as follows:—

"...On 23rd February, 1989, Shri Chiranji Lal Sharma gave notice of a question of privilege against Shri Rajendra Mathur, Chief Editor, Shri Surendra Pratap Singh, Executive Editor, Shri Ramesh Chandra, Printer and Publisher and Shri Ramesh Gaur, City Correspondent of *Navbharat Times* for allegedly publishing a false news item about him under the caption '*Sharaab peekar gadi chala raha Sansad girafdar, riha*' on the front page of its issue dated 13th January, 1989.

Shri Chiranji Lal Sharma stated *inter alia* in his notice as follows:—

'A news item with the caption '*Sharaab Peekar Gadi Chala Raha Sansad Girafdar, Riha*' appeared on the first page of the *Navbharat Times* on 13.1.89, specifically mentioning therein that Chiranji Lal Sharma of Sonapat (Haryana) and one of his companion advocate were arrested by Dhaula Kuan Police while Shri Chiranji Lal Sharma was driving the Maruti Van in a drunken state. It is stated that they were arrested under section 107/151 Cr. P.C. and were subsequently released on bail. The van which Shri Chiranji Lal Sharma was driving was also impounded.'

Shri Chiranji Lal Sharma has further stated that 'the news is absolutely baseless, false and frivolous and malicious. As a matter of Act, I myself never in my life, touched or tasted any wine. I am keeping the car for the last 25 years but I have never touched even the steering of the vehicle in my life. I am a teetotaler.' He has also stated that the news item has not only disturbed him mentally but has also adversely

affected him physically. According to Shri Chiranji Lal Sharma, he personally called on the Chief editor on 16th January, 1989 and asked him to tender unqualified apology and regrets for the mischief they had committed by publishing the impugned news item. He has also sent a registered A.D. letter on 19th January, 1989, to the newspaper in this connection, but the Chief Editor, Executive Editor, Printer and publisher and the City Correspondent of *Navbharat Times* did not express their regrets till 23rd February, 1989. Shri Sharma has alleged that with the publication of the said news item, his 'dignity and prestige has been lowered down in public esteem.'

On 24th February, 1989, when Shri Chiranji Lal Sharma sought to raise the matter in the House as a question of privilege, I observed: 'I will take care of it and then I shall let you know.'

On the same day, the matter was taken up with the Chief Editor, Executive Editor, Printer and Publisher and the City Correspondent of *Navbharat Times*, New Delhi and they were asked to state within three days of receipt of our communication what they had to say in the matter for my consideration.

On 27th February, 1989, I received their replies which are identical and read as follows:—

'At the very outset, we tender our unconditional apology for the mistake in publication of the news item on 13.1.1989 in our newspaper *Navbharat Times*, under the caption '*Sharaab Peekar Gadi Chala Raha Sansad Girafdar, Riha*.' It is stated that the news item was published in good faith, without any malice and without any intention of causing any sort of defamation or otherwise harm to anyone.

It is stated that the impugned news item was published on 13th ultimo. This inadvertent mistake had occurred due to the similarity in the names of Hon'ble member of Parliament and the offender. Immediately on realising the mistake, we had issued the clarification and contradiction in the 14th January issue of *Navbharat Times* under the caption '*NAMO KA CHAKKAR*'. Copy of the said news item published on 15th January is enclosed herewith *vide* which we had clarified the person

apprehended was not Shri Chiranji Lal Sharma, member of Parliament. We had also complied with the notice dated 16.1.1989 of Shri Chiranji Lal Sharma, member of Parliament by publishing the apology and clarification on the front page of 8.2.1989 issue of our newspaper. Copy thereof is enclosed for perusal and consideration.

We may again reiterate that we never had any intention of lowering the dignity or prestige of Shri Chiranji Lal Sharma and try our best to keep the high standard of journalism.'

Since the *Navbharat Times*, has already made adequate amends for the inadvertent lapse on its part, I am treating the matter as closed. I, however, fully share the agony of the Hon'ble member. I would, therefore, like to emphasise that the newspapers should be extremely careful while publishing news reports about the members. It would be better if they confirm the authenticity of the report before rushing to publish such items in the newspapers and that too prominently on the front page as in the instant case."

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LOK SABHA
(1988)

Point of privilege

Alleged casting of reflections on a member and the House by a newspaper

Facts of the case and reference to the Committee of Privileges

On 14th March, 1988, a member (Prof. Madhu Dandavate) sought to raise in the House the matter regarding publication of an article in the press involving another member (Shri Kamal Nath) and stated that "a very serious situation has developed. One member of this House, Mr. Kamal Nath is alleged to have two illegal accounts". Shri Kamal Nath then stated, *inter alia* as follows:—

"Sir, the *Indian Express* today has carried an article making grave charges of violation of the law against me. I would like to uphold the highest traditions of public life and would request this august House, everybody sitting here—it is not a question of this side or that side—to appoint a Committee of only three

members of the Opposition to be appointed by the opposition themselves in consultation with you to find out about the veracity and the illegalities contained in the article of the *Indian Express* today and to give a finding on the charges against me This has been raised. After all, it is not a question involving every member of this House. It is not a charge against me it is a charge against a member of Parliament. I am willing to submit myself to an enquiry by three members of the Opposition. Let there be a Committee of three members of the Opposition only..."

The Speaker, thereupon, observed that "you have to come under some rule, under some motion and then I will consider it."

2. On 15th March, 1988, Sarvashri Harish Rawat, Satyendra Narayan Sinha, Prof. N.G. Ranga and Prof. K.V. Thomas, members gave separate but identical notices of questions of privilege against *Indian Express*, *Financial Express* and *Jansatta* for publishing in their issues of 14th March, 1988, an article by Shri Arun Shourie, captioned "An M.P. and two Accounts" which was allegedly tendentious, misleading, false and derogatory.

3. The impugned article¹ read as follows:—

"Among Rajiv Gandhi's acquaintances the media focusses on the Bachchans. But there are others too. Among them the one from Doon School: the low profile Kamal Nath. A businessman, he shot into prominence during the emergency as one of Sanjay Gandhi's hatchetmen. When Mrs. Gandhi usurped the board of this newspaper, Kamal Nath was Sanjay's bully on the board. Till Sanjay's death Kamal Nath was much on display as a factotum in the inner-most circles. He was one of the select who could 'get things done'. He could, for instance, persuade the Government to hand a contract of one hundred and seventy-five million dollars for the purchase of 500,000 tonnes of High Speed Diesel and 300,000 tonnes of kerosene to a 'firm'—you won't mind my reminding you of the Kuo Oil Company—which was nothing but a sign-board in Hong Kong and had a paid up capital of fifty dollars only, because of which

¹The article was also published in *Financial Express* dated 14th March, 1988 and its Hindi version was published in *Jansatta* dated 14th March, 1988.

'mistake', as the Government eventually acknowledged in Parliament, the country lost between Rs. 9 and 12 crore!

Such was his justly fabled clout. With Sanjay's death he fell a bit from grace. There were suggestions about accounts not having been rendered to the satisfaction of the powers that then were.

The misunderstandings, were obviously cleared up. Since 1980 Kamal Nath has continued to represent Chindwara, Madhya Pradesh, in the Lok Sabha. But this time round he has studiously kept a low profile. And has busied himself with constructive tasks in what he has specified as his 'special interest' in the Lok Sabha's Who's Who that is 'rural development'. In pursuit of which he has been instrumental in setting up the country's second Doon School in Chindwara, the poverty stricken district he represents.

The Dubai Account—It now turns out that as long ago as 1981 and 1982 the Government got to know at least two of the foreign accounts that one of his firms—E.M.C. Steelal Ltd.—was even then maintaining illegally abroad.

On September 23, 1981 the Government got to know that E.M.C. Steelal Ltd. maintained an account in 'Dubai at the Algemene Bank Nederland N. V. (P. O. Box 2567, Dubai). The Government also got to know the number of the account Number 9528.3. And also that on September 9, 1981, this account received six million seven hundred fifty thousand thirty-four dinars—that is about Rs. 2 crore at the then prevailing rate of exchange—from the Chartered Bank in Dubai.

On October 13, 1981, the Enforcement Directorate asked the Reserve Bank whether E.M.C. Steelal Ltd. had been permitted to maintain any account abroad. The Reserve Bank replied on November 10, 1981. It told the Directorate that it had not given any permission to E.M.C. Steelal to maintain any foreign currency account abroad. It also told the Directorate that the company had not informed the

Reserve Bank that it was maintaining any foreign account.

But Kamal Nath was involved—not just a member of Parliament, but one known to be the hatchetman of the ruling family. The Calcutta office of the Directorate was therefore not the one to move without arming itself with a directive from Delhi.

Accordingly, on January 2, 1982, A.K. Roy Chowdhury, the Deputy Director, Enforcement, stationed at Calcutta sent all the information to his head office in Delhi seeking directions on what should be done in the matter.

In his letter to N. S. Bindra, the Director of Enforcement, Chowdhury made it a point to mention not just the E.M.C. Steelal Ltd. was maintaining the foreign account, not just that the Reserve Bank had stated that 'captioned company have not been given any permission to maintain such foreign currency account' but in addition that 'our enquiry reveals that company belongs to (sic.) Sri O. M. Khosla and Mahendra Nath. Sri Mahendra Nath is the father of Sri Kamal Nath, MP. They reside at Robinson Street, Calcutta'.

But the head office knew Who's Who as well as Calcutta and so it too dodged the query.

This is how A. K. Banerjee, the Special Assistant to the Director of Enforcement, phrased the reply in his letter of February 2, 1982. 'I am directed to refer to your letter....and to say that the matter was placed before the Director of Enforcement who desires that you being Officer on the spot may take a decision after taking into consideration all facts, circumstances and material available, including the original intelligence with you'.

How zealous are our enforcers. The man, in Calcutta instead of acting asks the boss in Delhi. The boss does not reply himself. He asks his Special Assistant to do so. That hapless man also shakes off the responsibility, 'I am directed to... and to say that...' And the directive

puts the matter back to Calcutta.

All that Calcutta through prudent, to do therefore was to initiate an inquiry to establish what it already knew. The 'Enquiry Report' of March 12, 1982, stated that Kamal Nath was a director of the company, and his father, Mahendra Nath, was its Chairman.

Twice warned, the Calcutta Office, 'taking into account' as directed, 'all facts, circumstances' shut the file tight.

The *Saudi Account*—Unfortunately that very month—that is in February 1982—the Government learnt of the second foreign account that this company of Kamal Nath was maintaining abroad. It obtained proof of the fact that Kamal Nath's E.M.C. Steelal Ltd. had account number 12.84.037 in the Albank Alsaudi Allhollandi in Riyadh, Saudi Arabia. In fact, the Government later obtained the bank statement regarding this account which showed that the account had at that time a credit balance of seven million seven hundred and eighty-nine thousand for hundred and fifty-four riyals—that is, of about Rs. 3 crore at the then prevailing exchange rate.

Further information too became available, details about the actual devices—under invoicing and the lot—which were being adopted by Kamal Nath's company to accumulate foreign exchange abroad. But Calcutta took all of two years to muster courage to do anything about it.

And what did it do?

On September 22, 1984, it forwarded the bank statement, etc. and the inquiry report to the head office in Delhi.

A fair proposal—But times changed. Information suggests that eventually action was in fact initiated. The decisive and ultimate action. And the same information suggests that it was nipped in the bud. And at the intervention of Delhi.

The charge here is as grave as it can be: a company of a member of Parliament has had foreign accounts, the Government has

had knowledge of the accounts and of the fact that the accounts were illegal; and by what we are told the decisive action that was commenced was called off, the evidence handed back and destroyed mid-stream at the intervention, of the man's Partons.

If the charge is true the conduct of a member of Parliament scandalises Parliament no less than that of Tulmohan Ram did in the Pondicherry Licences case. If it is untrue, I am guilty of scandalising the institution, and thereby breaching its privilege.

'But what is the use of your producing these things again and again? Those are shameless fellows. They will just shrug this one off too'.

But sometimes even the shameless have to at least pretend to be a little ashamed. Remember Amitabh Bachchan? He had to resign merely because of a fact about his brother. A fact involving at that time no more than Rs. 60 Lakhs to 85 lakhs. Now we have amounts going far beyond Rs. 5 crore. Will Kamal Nath be less honourable than even Amitabh Bachchan? The outcome thus will depend not on what this member of Parliament does as against what that one did. It will depend upon what Parliament itself does.

Will it set Committee of the House to examine the matter; a matter involving sums far in excess of the ones involved in the Tulmohan Ram Case?

'But it is the use of another Committee.

The Committee will discover not just the conduct of one member of Parliament. By examining the deposits into and withdrawals from these two accounts it will discover other, even more vital accounts of a party.

'But that's just another pie-in-the-sky. Even if the documents were in existence at any time, they must all have been destroyed by now.'

Not true. As of day before yesterday all the relevant documents existed in Calcutta. Moreover, the facts are within the knowledge not just of at least six members of Parliament, but of 50 to 60 officers who

were involved in the follow up action.

'But what is the use? Even if the documents exist today, they will be destroyed the moment your article comes out. Who will give the Committee a shred of papers to establish anything? I will, if Parliament so directs. Documents that establish:

- (i) the existence of the accounts;
- (ii) the deposit of above Rs. 2 crore into the Algemene Bank Nederland, Dubai;
- (iii) the balance of about 3 crore in the Albank Alsaudi Alhollandi, Riyadh;
- (iv) the fact that the Government knew that the accounts existed and that they were illegal;
- (v) the fact of the inquiries to get the truth;
- (vi) the sorts of things that were being found as a result of the inquiries;
- (vii) and the abrupt end to the chase on orders from Delhi.

A fair proposal?'

4. The members have *inter alia* alleged in their notices that the said article is "tendentious, misleading, false and derogatory. The article is a contempt of the member of Parliament and the Lok Sabha of which the member is a part. The article brings down the reputation of the Lok Sabha in as much as it falsely depicts the character of its member making the people to look down upon the institution.

5. On 16th March, 1968, Shri Kamal Nath also gave a notice of question of privilege against Shri Arun Shourie, author of the article and stated *inter alia* that "the allegation contained in the said article is false and is a pernicious attempt to bring me down in the estimation of the public at large. This constitutes a breach of privilege and contempt of the whole House."

6. On 21st March, 1988, Shri Kamal Nath handed over to the Speaker, a copy each of two letters dated 26th November, 1980 and 22nd August, 1981, issued by the Reserve Bank of India, Calcutta (duly authenticated by him.) wherein it had agreed to the opening of two bank accounts by M/s. E.M.C. Steelal Ltd., Calcutta—one in Riyadh, Saudi Arabia and another in Dubai, for smooth execution of the contract subject to certain conditions laid down in the letters. As per directions of the Speaker, a copy each of the said letter was forwarded to the Ministry of Finance (Department of Economic Affairs) on 21st

March, 1988, for furnishing a factual note thereon. The Ministry of Finance (Department of Economic Affairs) confirmed *vide* their note dated 21st March, 1988, that the two letters from the Reserve Bank of India (Exchange Control Department), Calcutta to M/s. E.M.C. Steelal, Calcutta were authentic.

7. On 22nd March, 1988, when Prof. Madhu Dandavate, Sarvashri Satyendra Narayan Sinha and Kamal Nath sought to raise the matter, the Speaker with the consent of the House referred the matter to the Committee of Privileges for examination and report.

Findings and recommendations of the Committee

8. The Committee of Privileges after examining Shri Harish Rawat, Prof. K. V. Thomas, Shri Satyendra Narayan Sinha and Shri Kamal Nath, members, Shri Arun Shourie, Editor *Indian Express*, Shri N. S. Jagannathan, Editor, *Financial Express*, Shri Prabhakar Joshi, Editor, *Jansatta* and also after considering all the relevant documents, in their Fourth Report presented to the House on the 7th March, 1989, reported *inter alia* as follows:—

- (i) "...The issues that arise out of the impugned article and on which the Committee have to take a considered view are two-fold, namely (i) whether the two accounts referred to by Shri Arun Shourie in his article were "illegal" as alleged by him, i.e., whether they were opened without the prior permission of the Reserve Bank of India; and (ii) whether Shri Shourie had cast reflections on Shri Kamal Nath as an MP in particular and on Parliament, its Committees and members in general, and thereby committed breach of privilege and contempt of the House.

After a careful analysis of the evidence, both written and oral specially the submissions made by Shri Shourie, the well established precedents and the rulings of Presiding Officers in both the Houses on cases of a similar nature, the Committee have reached the following conclusions."

- (ii) "So far as the allegation that the accounts were 'illegal' is concerned Government have stated that M/s. E.M.C. Steelal Limited, Calcutta, had actually opened accounts in Riyadh, Saudi Arabia and Dubai in pursuance of the permissions granted by the Reserve Bank of India, Exchange Control Department, Calcutta, *vide* their letters of 26th November, 1980 and 22nd August, 1981; that the numbers of these

accounts were 12.84.037 and 9528 respectively (the same as mentioned by Shri Shourie in the impugned article) and that the RBI Exchange Control Department, Calcutta, was empowered in the year 1980 to grant permission to firms to open foreign accounts. In view of the information furnished by the Reserve Bank of India to the Ministry of Finance as conveyed to the Committee *vide* their letter of 2nd June, 1988, to the above effect the Committee cannot but reach the conclusion that the assertion of Shri Kamal Nath that the accounts were opened with prior permission of the Reserve Bank of India is correct.”

- (iii) “The Committee regret to point out that there has been a miserable lack of coordination among the concerned authorities in this case. It is indeed very surprising that the Assistant Director, Enforcement Directorate, Calcutta Zonal Office should have made inquiries from the Exchange Control Department, Central Office, Reserve Bank of India, Bombay whether they had given permission for opening the accounts in question instead of ascertaining the facts from the Branch of the RBI located in Calcutta itself. The RBI, Bombay, in turn, gave a cautious reply to the effect that ‘we do not *appear* (emphasis added) to have given permission to the captioned company to maintain foreign currency account abroad nor do they *appear* (emphasis added) to have declared the same to us’.”
- (iv) “Content with such a bureaucratic reply, the Bank did not care to advise the Enforcement Directorate to check up with the Calcutta Office under whose jurisdiction the company was registered and located. It was in pursuance of such ill-founded and uncoordinated action that the premises of the firm were raided. The Committee are not concerned about the follow-up action taken by the Enforcement Directorate in the matter and the final outcome thereof. What they are concerned with is the effect of such vaguely-worded communications and lack of coordinated action on the reputation of Shri Kamal Nath, MP, who happens to be on the Board of Directors of the Company. The Committee take a very serious view of the clumsy manner in which the matter was handled

by the Enforcement Directorate including its Zonal Office in Calcutta on the one side and the Reserve Bank of India on the other. The Committee would like the Government to issue suitable instructions¹ in this regard to all concerned to avoid recurrence of cases of this nature in future.”

- (v) “In so far as the impugned article is concerned, the Committee find that even though Government have categorically stated that the accounts were opened with the prior permission of the Reserve Bank of India, reputation of a member of Parliament has been damaged all the same. It is indeed surprising that Shri Shourie should have chosen to rake up the case after so many years. In fact, even the inquiries in the case had been completed by June, 1985, *i.e.*, three years earlier. Shri Shourie himself gave out that one reason for not contacting Shri Kamal Nath before the article was written was that Shri Kamal Nath would destroy evidence and he was so influential that he got him dismissed from his job in the *Indian Express* (while Shri Kamal Nath was on its Board of Directors). It is no surprise, therefore, that he had an animus against and scores to settle with Shri Kamal Nath. It was as a consequence of such thinking that he seized the opportunity of clandestinely making the inquiries from the employees of Shri Kamal Nath and secured information to be able to publish the present story.”
- (vi) “Notwithstanding Shri Shourie’s protestations that his only aim was to expose the so called coterie surrounding the Prime Minister, of whom he thinks Shri Kamal Nath is one, the Committee cannot help thinking that the real reason why Shri Shourie had chosen to malign Shri Kamal Nath might have been the animus which he bore against him. Had Shri Shourie’s intentions been really so honest and straight forward, the proper course for him would have been to check up the facts with Shri Kamal Nath himself before publishing the article. Originating from the delayed information supplied by Shri Kamal Nath’s own employees, there was all the more reason for Shri Shourie to exercise all care and caution, for it was quite likely that certain disgruntled employees might

¹Enforcement Directorate, Ministry of Finance, Government of India issued instructions *vide* their Circular (Tech.) Order No. 289, dated 18th May, 1989 that these be followed strictly.

have had their own axe to grind. That a seasoned journalist of Shri Shourie's standing deliberately chose not to do so, speaks for itself."

(vii) The very heading of the article viz., 'An M.P. and two Accounts', gives to a lay reader the distinct impression that it is the conduct of a member of Parliament which has been brought into question. The Committee have, therefore, no doubt in their mind, particularly in view of the strong language and harsh expressions used in the article that Shri Shourie's objective was to bring down Shri Kamal Nath as a member of Parliament in the eyes of the public. The member's image has suffered irreparably."

(viii) "In this connection, the Committee have taken pains to study the constitutional position, well established precedents and rulings of Presiding Officers in both the Houses of Parliament and they find that the position is quite well settled, namely the House may not invoke its penal powers unless a libel upon a member of Parliament concerns his character or conduct in his capacity as a member of the House and is based on matters arising in the actual transaction of the business of the House. Where a Member's complaint is of such a nature that if justified, it could give rise to an action in the courts, it cannot form the subject of a request to the House to invoke its penal powers. Thus, in the case of a question of privilege regarding an article captioned, 'The President's Visit', published in the *Sunday Observer*—a Bombay Weekly—dated 29th April, 1984, which allegedly cast reflections on Shri Khushwant Singh, a member of Rajya Sabha, the Committee of Privileges in their Twenty-Sixth Report¹, *inter alia*, reported as follows:—

"Having read the references, the Committee has come to the conclusion that the references and the innuendos do not concern the character and conduct of Shri Khushwant Singh as a member of Parliament and as such do not amount to a breach of privilege'."

(ix) "In a similar ruling given in Lok Sabha on 19th March, 1986 in the case of Shri Ram Swaroop Sabharwal and others, Speaker, Dr. Jakkhar ruled as follows:—

"It is well-established that in order to constitute a

breach of privilege, any libel or charge against a member of Parliament must concern his character or conduct in his capacity as a member of the House and must be 'based on matters arising in the actual transaction of the business of the House'."

(x) "In an earlier case in Lok Sabha where one political leader was reported in a newspaper to have said in a public speech that the representatives of a political party in the legislatures were 'people whom any First-Class Magistrate would round up', and were 'men without any appreciable means of livelihood' the question of privilege was disallowed by Speaker Ayyangar. The Committee thus find that the concept of privilege has been given a very restrictive interpretation so far. Some members of the Committee were strongly of the view that in the changed situation, our Parliament is not bound to follow the precedents of the House of Commons."

(xi) "Article 105(3) of the Constitution provides:—

'In other respects, the powers' privileges and immunities of each House of Parliament and of the members and the Committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of that House and of its members and Committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978'."

(xii) "As originally enacted, the above clause provided that 'the powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House shall be such as may, from time to time, be defined by Parliament by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and Committees at the commencement of the Constitution'. Reference to the 'House of Commons of the United Kingdom was deleted by Section 15 of the Constitution (Forty fourth Amendment) Act, 1978, which came into effect from 20th June, 1979."

². Presented to Rajya Sabha on 18th January, 1985.

(xiii) "No comprehensive law has so far been passed by Parliament to define the powers, privileges and immunities of each House and of the members and the Committees thereof. In the absence of any such law, the powers, privileges and immunities of the House and of the members and the Committees thereof continue to remain the same as were available to us at the time the Constitution came into force. It is, therefore, clear that no new privileges can be claimed or created excepting those that were available to us on 26th January, 1950. The Committee are also conscious of the fact that members of Parliament are not above the law in matters that have no nexus with the business of the House."

(xiv) "In so far as the question of privilege is concerned, the Committee are of the view that the impugned article comes perilously close to criticising the conduct of Shri Kamal Nath, as a member of Parliament with an intent to malign him. It does not, however, constitute a case of privilege in view of what has been said in the preceding paragraphs."

(xv) "So far as the question of breach of privilege and contempt of the House is concerned, the Committee find that many passages of the article have quite rightly agitated not only the members who have given notices of questions of privilege but also the Committee. Particular attention of the Committee was drawn to the following passage:—

'But what is the use of your producing these things again and again? Those are shameless fellows. They will just shrug this one off too.'

This passage does not cast reflection on the members of Parliament in general and on Parliament itself.

That Shri Shourie was quite conscious that the tone and tenor of his article was not only defamatory *vis-a-vis* Shri Kamal Nath but might also constitute contempt of the House, is quite clear from the following observations:—

'If the charge is true, the conduct of a member of Parliament scandalizes Parliament no less than that of Tulmohan Ram did in Pondicherry Licences case. If it is untrue, I

am guilty of scandalizing the institution and thereby breaching its privilege'."

(xvi) "In his evidence before the Committee. Shri Shourie explained that he had written the article in the manner of a dialogue as in the Upanishads where a reader asks a question and the author gives a reply. He further tried to clarify that the article had nothing to do with members of Parliament as such. According to him, "it is a description of the coterie... If I had been so foolish as to refer to members of Parliament as 'shameless fellows', then in my successive three articles I would not have pleaded for setting up of a Committee to examine this illegality'."

(xvii) "On further questioning by the Committee Shri Shourie affirmed:—

'...This sentence has absolutely nothing to do with members of Parliament. These sentences were about the coterie around the Prime Minister... The decisive reasons show that this is a mis-reading, *I am sure it is unintended and I am sorry*'."

(xviii) "Subsequently, Shri Shourie in letter dated 31st October, 1988, addressed individually to the members of the Committee and a copy endorsed to the Secretariat for 'record', has stated that he has 'received' a copy of the draft Report of the Committee. Commenting upon certain portions of the draft Report as being 'gross distortion' of 'what I said and wrote in as much as 'an attempt is being made to make out that I expressed regret for what I had written', Shri Shourie has stated:—

'My request therefore is please decide what you will, but please do not do so under any misapprehension that I regret what I wrote'."

(xix) Since Shri Shourie has taken care not to publish the contents of the draft Report, the Committee cannot hold him guilty of breach of their privilege or contempt of the House. The Committee also realise that it would be futile for them to ask Shri Shourie to divulge the source from which he 'received' the Report. Nevertheless, the Committee cannot but take a ~~serious~~ view of the grave impropriety on his part in addressing letters individually to the members of the Committee thereby seeking to influence their collective judgement in the

matter. If at all he had any submission to make, he should have written to the Chairman. The way he has chosen to act in the matter only exposes the thin veneer of his regard to Parliament and its Committees so loudly proclaimed by him in evidence.

The entire tone, tenor and style of the article definitely smacks of disrespect of Parliament and its members and Shri Shourie did not even have the decency of expressing regrets."

- (xx) "While deprecating such behaviour on the part of a journalist in Shri Shourie's position, the Committee

would, in the highest traditions of this august body, not like to deflect from the correct and judicious stand taken by them in similar cases in the past. The Committee are entirely in agreement with the observations¹ made by a predecessor Committee that it adds to the dignity of one and all if power in a democratic system is exercised with restraint; the more powerful a body or institution is, the greater restraint is called for, particularly in exercising its penal jurisdiction. The Committee would, however, like to caution Shri Arun Shourie and writers of his ilk to be more careful and restrained in their writings particularly about those who are in public life and whose conduct is ever exposed to public gaze."

- (xxi) "The Committee would also like to observe that Sarvashri N.S. Jagannathan and Prabhsh Joshi, Editors of *Financial Express* and *Jansatta* should be more discreet in future while publishing such articles in their newspapers."

- (xxii) "The Committee consider that the House would best consult its own dignity and in keeping with the lofty traditions of Parliament, choose not to take any further notice of the matter."

- (xxiii) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

9. Three members of the Committee submitted a joint note disagreeing with the findings and procedure of the Committee. The note was appended to the

Report of the Committee alongwith a note by the Committee on certain comments made by the members in their joint note.

Action taken by the House

10. On 9th March, 1989, Prof. Madhu Dandavate, a member moved the following motion:—

"That this House do consider the Fourth Report of the Committee of Privileges presented to the House on the 7th March, 1989."

The motion was put to vote of the House. After division, the motion was negatived.

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LOK SABHA

(1996)

Point of privilege

Alleged reflections on members and the House by Additional Sessions Judge, Delhi

Facts of the case and ruling by the Speaker

On 27 February, 1996, Shri George Fernandes, a member, gave notice of a question of privilege against Shri S.N. Dhingra, Additional Sessions Judge, Delhi for having allegedly committed a breach of privilege and contempt of the House by casting reflections on members and the House while passing an order on the application of Shri Kalp Nath Rai, another member, (who was lodged in Central Jail, Delhi in connection with a criminal case) for permission to attend the proceedings of the House.

Shri Fernandes quoted in his notice of question of privilege excerpts from the order of the Additional Sessions Judge, Delhi, which were widely reported in the National Press. Some of the remarks objected to by Shri Fernandes, were as follows:—

"In today's India MPs and Ministers think it a privilege if they get a chance to sit at the feet of underworld Dons and base businessmen, to get secret donations from them and to get their blessings...most of the time of nation's most prestigious institutions i.e. Lok Sabha and Rajya Sabha has been wasted at the huge cost to national exchequer by causing walk outs, pandemoniums, creating fish market scene and Halla Gulla...The politics seems to have become the most profitable business of the day wherein the individual enjoys the fruits of political power and he becomes holder of several new accounts in the Indian and foreign

¹First Report (Seventh Lok Sabha).

banks and these accounts fatten day in and day out..."

Shri Fernandes contended in his notice that the observations made by Shri Dhingra were tantamount to 'gross contempt of the House' and also amounted to a 'breach of privilege'. Shri Fernandes sought the permission of the Speaker to raise the matter on the floor of the House as a question of privilege.

2. On 11 March, 1996, Shri Mani Shankar Aiyar, another member, gave notice of a question of privilege against Shri S.N. Dhingra, Additional Sessions Judge, Delhi, "for his remarks against politicians as a class," in another order dated 24 January, 1996 in a case relating to Shri H.K.L. Bhagat, Ex-MP.

3. The same day when Shri Rabi Ray, member, sought to raise in the House, the matter relating to Shri S.N. Dhingra's remarks in Shri Kalp Nath Rai's case the Speaker (Shri Shivraj V. Patil) observed as follows:—

"I would like to read out what the hon. leaders of the parties in principle, not exactly in the same words, wanted that an expression to the views expressed by them in the House should be given on the floor of the House. In the meeting of the leaders of the parties held in my Chamber, I was asked to give expression to the views of the Members of Parliament regretting and resenting the sweeping observations made against the Parliament and the Members of the Parliament. Before it could be done, the High Court of Delhi has expunged the objectionable observation and has said as follows:—

"In the present case, there was no occasion for the learned Additional Sessions Judge to make comments either against the Parliament or its proceedings or against the Parliamentarians or politicians. He ought to have confined himself to the specific issue before him and dealt with the said question and nothing else."

Lords Corman in *Duport Steel Limited versus SAS* Weekly Law Report 142 has observed as follows:—

"If people and Parliament come to think that the judicial power is to be confined to nothing other than the Judges' sense of what is right, confidence in the Judicial System will be replaced by fear of it becoming uncertain and arbitrary in its applications."

Again Abraham Lincoln has said as follows:—

"Nearly all men can stand adversity. But if you want to test a man's character give him power."

This statement applies again in the quotation of what the judge of the High Court has said:—

"This statement applies to all forms of power including the judicial power, judicial power also requires to be used with great restraint. In fact, greater the power, greater is the need for restraint. The learned Additional Sessions Judge totally exceeded the normal limitations imposed by Judicial restraint in making uncalled for observations against the Parliament, its proceedings, Parliamentarians and politicians. The remarks extracted above are hereby expunged."

These are the views expressed by the hon. High Court. What has been done by the High Court, this is what I am saying, is very judicious and meets the ends of justice and can be appreciated. And that is the spirit in which all the wings of the State should function in the interest of justice welfare of the people and unity of the country. Mistakes committed by the individuals here or there should not reduce the respect and regard the persons working in all the wings of the State have for one another, for the people and the State and the unity of the country, and should not be corroded or reduced. The balanced judicious and correct Constitutional approach adopted by all would be in the interest of the people, the ends of justice and the unity of the country.

I think, in view of these developments and observations by the High Court, nothing more need be done by this Parliament."

Thereafter, when Shri Mani Shankar Aiyar, while welcoming the Speaker's observations, drew attention to the alleged derogatory remarks of the said Judge in his earlier order in January, 1996, as mentioned by him in his notice of question of privilege. The Speaker, thereupon, observed:—

"You have given me the notice; and the copy is here. I have not given the consent to the notice...the extracts of the judgement and all those things are before us; and you have said in your notice also, the remarks relate to politicians. Of course, the parliamentarians are also politicians; and yet what has been said by the higher judiciary is just and proper. This august House is of the view that the same principle may be applied to what has been said or done which should not have been said or done."

The matter was thereafter closed.

486

RAJYA SABHA

(1959)

Point of Privilege

Unfair and mendacious reporting of proceedings of the House and casting reflections on a member

For details of the case please see summary No. 321 at p. 473 ante.

487

RAJYA SABHA

(1962)

Point of Privilege

Reflections on a member on account of his speech in House by a newspaper

Facts of the case and action taken by the House

On the 8th May, 1962, Shri Bhupesh Gupta, a member, drew the attention of the House to a report published in the *Murasoli*, a Tamil newspaper, dated the 5th May, 1962, regarding his speech made in the House on the Presidential Address. He stated:

"In that issue of the paper it is said, 'Is he a Communist Leader or a goonda leader'? Then it is said that 'when he got his applause from the House blind fury over-powering him, he spoke like a goonda leader. This is how the Communist leader, Mr. Bhupesh Gupta, spoke like the Razakar leader, Kassim Rizvi'. Then a cartoon is given in which I and the Congressmen are goondas."

Shri Bhupesh Gupta added:

"It is a gross breach of privilege. Even so, I would not bring a privilege motion here but I would like that the opinion of the House should be made known."

Shri Gupta did not pursue the matter further and it was treated as closed.

488

RAJYA SABHA

(1963)

Point of Privilege

Casting reflections on a member by a newspaper

Facts of the case and reference to the Committee of Privileges

On the 8th May, 1963, Shri Bhupesh Gupta, a member, gave notice of a question of privilege arising out of certain writings contained in an article entitled "BHUPESH UNMASKS HIMSELF—COMMUNIST TRICK TO DESTROY INDIAN UNITY" appearing in a Delhi weekly *Organiser*, dated 18th March, 1963. The article related to certain observations of Shri Bhupesh Gupta in the course of his speech in the House on the 4th March, 1963. Shri Bhupesh Gupta had taken objection to the following passages of the article:—

"But was it ignorance or something worse? It is significant that Mr. Gupta's charge follows the appearance in an openly pro-Communist news-weekly of Bombay of a news item making the same charge in almost the same language. Could it be that the weekly and Mr. Gupta entered into a league—the paper to give its news stunts and appearance of truth and the Communist leader to create a state of confusion in which alone they expect to thrive?"

I suspect the inspiration of the Bombay weekly and Mr. Bhupesh Gupta is the same—it is Peking.

When the Chinese masters have found Mr. Birla to be an evil, how could their Indian servants of whom Mr. Gupta is a leader, find it otherwise?"

2. The Chairman (Dr. Zakir Hussain) referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

3. The Committee of Privileges, after considering the written explanation of, and hearing, Shri K.R. Malkani, Editor of the *Organiser*, in the Fourth Report laid in the Table of the House on the 18th September, 1963, reported *inter alia* as follows:—

(i) "In reply to questions put to him Shri Malkani stated that in publishing the impugned article it was not at all his intention to show any kind of disrespect of Parliament or to prevent a member of Parliament from discharging his duties. He viewed Parliament with the highest regard, for there was nothing above Parliament. He explained that he had published the article in a certain context. It never struck him that he was doing something even remotely affecting the position of members of Parliament. He had been editing this paper for nearly fifteen years and a thing like the present had never happened

before. If it was the sense of the Committee that the matter was serious he would accept that, and he would tender his apology."

- (ii) "In view of the explanations given by Shri Malkani, the Editor of *Organiser* and the apology tendered by him, the Committee recommends that no further action be taken by the House in the matter."

Action taken by the House

4. On the 20th September, 1963, the Chairman of the Committee of Privilege (Shrimati Violet Alva) moved the following motion in which was adopted by the House:—

"That the Fourth Report of the Committee of Privileges laid on the Table of the Rajya Sabha on the 18th September, 1963, be taken into consideration and having considered the same the House agrees with the recommendation contained in the Report."

489

RAJYA SABHA

(1963)

Point of Privilege

Alleged reflections on the conduct of members by an outsider

Facts of the case and reference to the Committee of Privileges

On the 1st May, 1963, A.M. Tariq, a member raised a question of privilege against one Shri Krishnaraj M. D. Thackersey of Bombay arising out of certain statements contained in an affidavit filed by Shri Thackersey in Suit No. 319 of 1960 before the High Court of Judicature of Bombay. As a plaintiff Shri Thackersey in his affidavit had *inter alia* stated that two defendants had entered into a conspiracy with members of Parliament to get questions put and speeches made in Parliament about him and his business with a view to malign him. The impugned paragraph of the affidavit to which objection was taken were as follows:—

- "12(b) The 1st and the 4th Defendant obviously managed to circulate the said pamphlet amongst the members of Parliament with a prearranged conspiracy to have speeches made and questions put to the Ministers of the Government on the basis of the pamphlet, so that thereafter the speeches and questions so put and answers

thereto given in Parliament may be got published with impunity in the newspapers as being part of the Parliamentary proceedings throughout the length and breadth of the country under the guise of the same being privileged publications. Accordingly, they caused some of the members of the Rajya Sabha, particularly those belonging to the Communist Party to fire at the Government question after question based on the said pamphlet. These questions were duly answered by the Ministers concerned and the authoritative answers given by the Ministers show how false and unfounded the allegations in the said pamphlet were. These questions were put and answered in the Rajya Sabha on the 25th February, 4th March and the 12th March, 1963.

13. I say and submit that the applications made in the said issues of the *Blitz* dated the 9th and 16th March, 1963, under the guise of being reports of Parliamentary proceedings have been deliberately and maliciously made by the 1st and the 2nd Defendants in conspiracy and co-operation with the 4th Defendant against myself and the members of my family and the concerns in which we are interested with a view to lower and prejudice us in the estimation of the Indian public and to cause harm and damage to our reputation and credit. I further say that the said Defendants deliberately engendered and instigated the proceedings in the Parliament by supplying false and unfounded information and materials to some of the members of the Parliament against us, as has been amply proved by the authoritative answers given by the Ministers and Deputy Ministers concerned to the questions put to them by the members and that the sole object of the said Defendants in causing the said questions to be put was to indirectly re-publish the same false and defamatory allegations and insinuations which had been made against us in the said issue of the *Blitz* dated 24th September, 1960. They knew full well that under the said Order, dated the 14th February, 1961, the said allegations and insinuations could not be directly or indirectly published by them in any manner whatsoever and that the publication thereof would be wrongful and a contempt of this Hon'ble Court and yet they wrongfully resorted to the above device of having the matter

debated in the Parliament and then pretending to publish the Report of such Debate in the said issues of the *Blitz* as purporting to be fair and accurate reports of Parliamentary proceedings. I say that in the first instance the report of the Parliamentary proceedings as published in the said two issues of the *Blitz* are not fair and in one respect not even accurate that the reports are coloured and embellished with sensational, misleading and defamatory headings and comments and that the publications are actuated by the malice and grudge which the said defendants entertain towards me and the members of my family and our concerns. I accordingly submit that the said publications are not at all entitled to any immunity or privilege as being fair and accurate reports of any Parliamentary proceedings."

2. The House referred the matter to the Committee of Privileges.

Preliminary Report of the Committee

3. The Committee of Privileges in their Fifth Report presented to the House on 16 December, 1963 recommended that the decision on the complaint should be kept pending till the final disposal of the contempt application by the Bombay High Court in relation to which the affidavit of Shri Thackersey had been filed. The Committee further recommended that the time for presentation of the final report should be extended till the High Court had disposed of the said application.

4. The House agreed with the recommendation contained in the Report on the 17th December, 1963.

Findings and recommendations of the Committee

5. The Committee of Privileges in their Eighth Report presented to the House on the 7th December, 1966, reported *inter alia* as follows:—

- (i) "At its meeting held on November 5, 1966, the Committee considered the matter further. At that meeting it was brought to the notice of the Committee that while an appeal was pending before the Bombay High Court from the judgment in the main suit relating to this case, it was understood that by consent no order was made on the contempt application so that the said application stood disposed of. In view of this position, the Committee decided that the

matter need not be kept pending any longer and should be disposed of."

- (ii) "After careful consideration of the contents of the paragraphs, the Committee have come to the conclusion that it is not possible to hold that the paragraphs contain any direct or explicit insinuation against any member of the Rajya Sabha. In any case the statements contained therein are not free from ambiguity. The Committee would accordingly recommend to the House that the matter should not be pursued further."

Action taken by the House

6. On the 10th December, 1966, the House agreed with the Report of the Committee.

490

RAJYA SABHA

(1964)

Point of privilege

Alleged casting of aspersions on members of the House by a Minister in his speech in the House

Facts of the case and ruling by the Deputy Chairman

On the 17th March, 1964, Shri Bhupesh Gupta, a member sought to raise a question of privilege with regard to certain remarks¹ made by the Finance Minister, Shri T. Krishnamachari during his speech in the House on the previous day. Shri Gupta alleged that the Finance Minister had tried to malign the Communist members and thus prevented them from discharging their functions as members of Parliament. He also desired those remarks to be expunged from the proceedings.

2. The Deputy Chairman (Shrimati Violet Alva) refused her consent to the raising of the matter on the floor of the House.

491

RAJYA SABHA

(1966)

Point of privilege

Alleged contempt of the House and of a Parliamentary Committee by certain statements made by a Minister in the House and before the Committee

¹The remarks to which exception was taken were as follows:—

"I may be a Congress man of the black variety but I am not a traitor to the country as every Communist is."

Facts of the case and ruling by the Chairman

On the 12th August, 1966, Sarvashri Bhupesh Gupta and Raj Narain, members, sought to raise a question against Shri C. Subramaniam, Minister of Food & Agriculture regarding certain statements made by him before the Public Accounts Committee and which were later on commented upon by the Public Accounts Committee in their Fiftieth and Fifty-fifth Reports. The members alleged that Shri Subramaniam was guilty of suppressing facts and misleading the Public Accounts Committee and obstructing its investigation and therefore committed breach of privilege of the House.

2. Shri M.C. Chagla, Leader of the House, stated that the members had not come out with the facts to prove their allegations.

3. Shri Subramaniam stated that he had appeared before the Committee with their permission in order to place all the facts before them and the Committee had appreciated the evidence given by him. He denied the allegations that he in any way tried to mislead or pressurize the Committee or tried to give false facts. As regards certain portions of his evidence commented upon by the Committee, he added, it was a matter of interpretation and he thought his contention was correct one.

4. The Chairman (Dr. Zakir Hussain) reserved his ruling.

5. On the 17th August, 1966, the Chairman observed *inter alia* as follows:—

"I have carefully considered the notices and the submissions made. I have come to the conclusion that no case of breach of privilege or contempt of this House is involved."

492

RAJYA SABHA

(1966)

Point of privilege

Alleged reflections on Parliament by a newspaper

Facts of the case and reference to the Committee of Privileges

On the 23rd August, 1966, Sarvashri Sunder Singh Bhandari, Niranjan Varma and V.M. Chordia, members gave notice of a question of privilege in respect of certain observations contained in the editorial of an Urdu Weekly 'Aina' of August 15,

1966, published from Srinagar. The members took objection to the following observation in the editorial:—

"Our new generation cannot remain ignorant like some of the members of our Parliament and every effort aimed at making ignorance the touch-stone of nationalism should be frustrated."

2. The members contended that the above observations were grave insult to Parliament and therefore constituted a breach of privilege of the House.

3. On the 25th August, 1966 the Chairman (Dr. Zakir Hussain) referred the matter, under rule 203 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, to the Committee of Privileges.

Findings and recommendations of the Committee

4. The Committee of Privileges, in their Sixth Report presented to the House on the 1st September, 1966, reported as follows:—

"Having read the article as whole, the Committee came to the conclusion that there was no breach of privilege or contempt of the House involved in the matter, the Committee reports to the House accordingly."

Action taken by the House

5. The House adopted the Report of the Committee on the 5th September, 1966.

493

RAJYA SABHA

(1966)

Point of privilege

Casting reflections upon the members by an outsider

Facts of the case and reference to the Committee of Privileges

On the 9th September, 1966, Shri Arjun Arora, a member raised a question of privilege in the House arising out of certain statements contained in a letter, dated the 1st September, 1966 by Shri Ram Gopal Gupta of Kanpur. The letter of Shri Gupta was printed and copies thereof had been received by several members. Shri Arjun Arora took objection to the following portions of the letter:—

"It is to be regretted that for some time past a calculated, false and malicious propaganda is being carried on, on account of political and personal animosity and rivalry against my brother

Shri Ram Ratan Gupta, by some persons with subtlety using the floor of the Houses for such purposes against my family members, business concerns and companies. During the last session of the Parliament, some questions were put firstly in the Rajya Sabha and later on in the Lok Sabha about the alleged write off of the income-tax demand against my firm to the tune of Rs. 30 lacs. It would be seen from the questions themselves that though they were couched in general terms but they were aimed and directed towards us and the general form was only a subterfuge."

* * * * *

"In the present session again questions have been tabled by the same member and with same purpose....Put in the correct perspective, the whole matter will have a different look and it will be evident that these tactics are being employed by interested persons to pressurise the administration to harass us".

"It is well known that a close friend of these interested persons is being prosecuted at our instance for misappropriation of money and falsification of accounts and statutory Books of a Company in which we hold substantial interest."

2. On a motion moved by the Leader of the House (Shri M. C. Chagla) the matter was referred to the Committee of privileges.

Findings and recommendations of the Committee

3. The Committee of Privileges, after considering the explanations offered by Shri Ram Gopal Gupta, in his letter dated the 4th November, 1966 in relation to the complaint in their Seventh Report presented to the House on the 7th December, 1966, reported *inter alia* as follows:—

- (i) "It is well-established that written imputations affecting members of Parliament may amount to a breach of privilege without being libels under the Common law provided such imputations concern the character or conduct of a member in that capacity. It is also established that reflection upon members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House."
- (ii) In his letter of November 4, 1966 Shri Ram Gopal Gupta has chosen to expatiate at length on the need for condonation of the law of

privilege. For the purpose of disposing of the present complaint, this Committee is not called upon to go into that question. The Committee must proceed to enquire into the complaint under the existing constitutional position. The Committee, however, feels constrained to observe that the language used by Shri Gupta in his letter is in parts highly objectionable and, in fact aggravates the offence. Posing the question 'what remedies, if any, are available to an average citizen who finds himself defamed on account of any utterance made against him in the House of Parliament', Shri Gupta observes:

"If these utterances are repeated outside the House there is the law of defamation to which recourse can be had to seek redress. In this particular case, sufficient provocations and temptations were offered to certain members to carry the courage of their conviction outside the precincts of the House and to face the consequences thereof. Unfortunately I am driven to the conclusion that discretion proved to be the better part of their valour and they decided not to repeat their allegations in the public. 'This obviously has afforded them the protection of Art. 105(2)'.

The Committee regrets that Shri Ram Gopal Gupta, who was himself a member of this House for six years, has chosen to make an assertion of this nature, which, to put it mildly, shows an utter lack of understanding of the true concept of the privilege of freedom of speech in Parliament."

- (iii) "A perusal of the impugned passages in Shri Ram Gopal Gupta's letter of September 1, 1966, will show that they clearly attribute motives to members in putting questions concerning Sri Ram Rattan Gupta (Brother of Shri Ram Gopal Gupta) and his firm. Thus the statement that—

'for some time past a calculated, false and malicious propaganda is being carried on on account of political and personal animosity and rivalry against my brother Shri Ram Ratan Gupta by some persons with subtlety using the floor of the House for such purposes against my family members, business concerns and companies clearly makes serious imputations casting reflections concerning the conduct of members in their capacity as such members. Further, the allegation that 'these tactics are

being employed by interested persons to pressurise the administration to harass us' is a direct reflection on the character and conduct of members.'

(iv) "Throughout his lengthy explanation, Shri Ram Gopal Gupta has said nothing in explanation of the imputations and reflections he has thought fit to make on the conduct of the members. On the other hand, he has justified them and put forward a plea that he is entitled to do so."

(v) "The Committee notes that in the concluding paragraph of his letter of November 4, 1968, Shri Gupta has stated—

'If in their wisdom, the Committee are inclined to think that howsoever unintended it was, I did outstep the limits imposed by law, I do not have the slightest hesitation to bow down to the verdict of the Committee and offer my unconditional and unqualified apologies for having circulated to the members my letter of September 1.'

Ordinarily, the Committee would have considered an apology of his nature as sufficient mitigation of a charge of breach of privilege but, as already stated earlier, the whole tenor of the explanations offered by Shri Ram Gopal Gupta in relation to the specific charges of breach of privilege is unrepentant and self justifying."

(vi) "In the circumstances, the Committee must hold that the letter of Shri Ram Gopal Gupta of September 1, 1966, *per se* constitutes a gross breach of privilege and contempt of the members of the House and the House itself and that the breach of privilege has been aggravated by the explanations given in his letter on November 4, 1966."

(vii) "At its second sitting held on November 5, 1966, the Committee considered the question of punishment. In view the Committee took of the nature of the offence, it was decided at that meeting to recommend to the House that Shri Ram Gopal Gupta be summoned to appear before the bar of the House and be reprimanded."

(viii) "Since the Committee came to its conclusions stated above a letter was received by the Chairman of the Committee from Shri Ram Gopal Gupta dated November 22, 1966. In this letter Shri Ram Gopal Gupta has tendered an

unconditional and unqualified apology for circulating to members of the Rajya Sabha his letter of September 1, 1966. He has said, that he is deeply sorry for any offence or hurt his letter of September 1, 1966, or his subsequent letter of explanation of November 4, 1966, may have caused to any member of the Rajya Sabha or to the House itself. He adds: "I wrote the two letters only with a view to placing before the members a sense of what I felt to be a legitimate grievance of mine, but I had no intention at any time to cast reflections on or attribute motives to members in the discharge of their Parliamentary duties: I now realise that my letters may have outstepped the limits imposed by law and that I should not therefore have written them."

(ix) "In view of this submission of Shri Gupta, and in view of his unconditional and unqualified apology, the Committee has now come to the conclusion, in modification of its earlier decision, that the House would best consult its own dignity by taking no further notice of the matter. The Committee accordingly recommends that no further action be taken by the House in the matter."

Action taken by the House

4. On the 10th December, 1966 the House adopted the report of the Committee.

494

RAJYA SABHA

(1967)

Point of privilege

Alleged reflections on the proceedings of the House by a newspaper.

Facts of the case and ruling by the Chairman

On 29th March, 1967, Shri Bhupesh Gupta, a member drew the attention of the House to the following report appearing in the *Indian Express*, of that morning:

"The now-familiar pastime of baiting Generals Kaul and Chaudhuri occupied half of the question hour in the Rajya Sabha."

Shri Gupta contended that the aforesaid news-report was a malicious and unfair comment and constituted a breach of privilege.

The Chairman (Dr. Zakir Hussain), treating the matter as closed, observed as follows:

"We in this House are very anxious not to have differences with the press, and we leave many things unnoticed which otherwise we may have noticed. But this in my opinion is absolutely unfair and the press also owes this House a duty. In reporting the proceedings, the reporting must be absolutely objective and opinions, suggestions and insinuations should not be brought in. Otherwise, this House will have to take a serious view of the matter."

495

RAJYA SABHA

(1967)

Point of privilege

Alleged reflections by a member on the conduct of a member of the other House.

Facts of the case and ruling by the Chairman

On the 30th May, 1967, during the course of a debate in Rajya Sabha, Shri Sheel Bhadra Yajee, a member, made the following allegation:

"When the Report of the Vivian Bose Commission was being discussed, even though there were 750 members of Parliament. Sahu-Jain did not find a single member to lament, and Dr. Ram Manohar Lohia, a member of Lok Sabha, had to take Rupees one lakh and on receiving that amount his signatures were taken."

2. On the 5th June, 1967, Shri Rajnarain, another member sought to raise a question of breach of privilege on the ground that the above allegation made by Shri Sheel Bhadra Yajee was malicious, untrue, baseless and defamatory of Dr. Ram Manohar Lohia. This, he felt, constituted a breach of privilege and contempt of the House and requested that the matter be referred to the Committee of Privileges for appropriate action or that Shri Sheel Bhadra Yajee should apologise and withdraw his charge.

3. As Shri Yajee was not present in the House, the Chairman (Shri V.V. Giri) observed as follows:

"I would like to have Shri Yajee's views in the matter but I would not allow Shri Rajnarain to raise it as a question of privilege."

4. On the 6th June, 1967, Shri Sheel Bhadra Yajee made the following statement:

"I say it is correct and it is a fact, and I am prepared to prove it. I am not prepared to withdraw it. You said that I should express my regret if my allegation is false. In case it is false, I would express my regrets. But I know that the report that I have received is from a reliable source and I would produce everything as and when necessary and therefore. I think that they are correct in respect of Sahu Service Party, and I am not prepared to drop it."

The Chairman asked Shri Yajee to substantiate his allegation.

5. On the 19th June, 1967 the Chairman treating the matters as closed, observed as follows:—

"On June 10, 1967, Shri Yajee saw me at my request. I asked him whether he knew directly and from his personal knowledge anything about Dr. Lohia taking one lakh of rupees as alleged by him. Shri Yajee replied in the negative. Then I as out to him that hearsay evidence, had in his possession for making the charge. He admitted that he had none. I pointed out to him that hearsay evidence, had no value so far as my present enquiry was concerned and asked him therefore, to file a written statement.

Shri Sheel Bhadra Yajee has since filed a statement before me. In the statement, Shri Yajee admits that he made the allegation against Dr. Lohia based on certain 'circumstantial' evidence. He has submitted:

"I never said that the money was given to Dr. Lohia in my presence. I had no intention to defame Dr. Lohia, and there was no conspiracy by me to defame him and to mislead the House. Shri Rajnarain in his speech described my Congress Party and Congress Government as orderly of the Birla Empire and I had to pay him in the same coin."

I want to make it clear that members, who are not in a position to substantiate charges of the nature made in the present case should not make such statements. Allegations and counter-allegations of this nature by members detract from the dignity of Parliament. As has been well stated by May, 'Good temper and moderation are the characteristics of parliamentary language. Parliamentary language is never more desirable than when a member is canvassing the opinions

and conduct of his opponents in debate.' I would like to add that it would be a good rule to observe that members of one House should not use the freedom of speech on the floor of the House to make allegations or charges against members of the other House. As Shri Yajee has stated that he had no intention to defame Dr. Lohia or to mislead the House, I would like the matter to rest here. I hope Shri Sheel Bhadra Yajee would take note of what I have stated."

496

RAJYA SABHA

(1967)

Point of privilege

Alleged reflections on the conduct of members and proceedings of Parliament by a newspaper

Fact of the case and reference to the Committee of Privileges

On the 5th June, 1967 the Chairman informed the House that he had received notice of a question of privilege from Sarvashri Krishan Kant, Chandra Shekhar, Rajnarain and G. Murahari, members against the Editor of *Hindustan*, a Hindi Daily for certain observations contained in an editorial captioned "*Niradhar, Anargal Wa Anuchit*" published in its issue dated the 2nd June 1967.

2. The Chairman gave his consent to the raising of the matter and permitted Shri Krishan Kant to ask for leave of the House, which he did. As no member dissented, the leave was granted.

3. The English translation of the caption and the passages in Hindi, complained as objectionable by the members was as follows:

"BASELESS, ABSURD AND IMPROPER

- (i) But it is a matter of regret that certain members of Parliament did not analyse this report from the point of view of the basic object but only used it as a medium for a personal or party propaganda or for defaming a particular institution or an individual.
- (ii) Before making the Hazari Report a ground for the debates, the members of Parliament should have examined whether the report was true, authentic and impartial.
- (iii) The storm raised in Parliament over such an unscientific, unauthentic and audacious Hazari Report and the bogey of Birla-Empire raised

in the spirit of a missionary and with the zeal of a crusader has in its root so much of crookedness timidity and perversity which perhaps had never been displayed on the floor of Parliament before.

- (iv) The question is whether the display of absurdity venom, character assassination and lack of wisdom from the forum of Parliament on the basis of the Hazari Report was in keeping with the dignity of the Parliament and its members."

The members contended that the editorial had attacked, the members of Parliament in a most deplorable and mischievous way by casting reflections and there was a deliberate attempt to bring the members of the House into disrepute. This they felt, constituted a breach of privilege and contempt of the House.

4. After some discussion, the Minister of External Affairs and the Leader of the House (Shri M.C. Chagla) moved, and the House adopted, the following motion:

"That the complaints of breach of privilege raised by the Shri Krishan Kant, Shri Chandra Shekhar, Rajnarain and Shri G. Murahari, be referred to the Committee of Privileges with instruction to report before the end of the next session."

Findings and recommendation of the Committee

5. The Committee of Privileges, in their Ninth Report presented to the House on the 14th August, 1967, reported *inter alia* as follows:

- (i) A perusal of the impugned editorial will leave no doubt in the mind of any one that it has been written in bad taste and without a sense of responsibility. While the Committee is conscious that the Press should have the liberty to express freely its views without fear or favour on matters of public importance, it should not be abused by distorting facts and attributing motives. The offence becomes more serious if such distortions are indulged in relation to proceedings of Parliament and motives are attributed to members of Parliament....

It does not require any argument to come to the conclusion that these and certain other similar statements in the editorial article make serious reflections on the character and proceedings of the Parliament and on the conduct of its members and thereby tend to bring the

Parliament and its members into disrepute. This is a clear case of breach of privilege and contempt of the House."

- (ii) "Having come to its finding, the Committee would like to take note of the fact that Shri Joshi, the Editor of the *Hindustan* has tendered an unconditional apology:

'May I, at the outset, submit that it was not the intention of the author of the editorial to offer any indignity or odium to the august House. At any rate, without going into any other aspect of the matter. I express my deep and unqualified regret for any offence caused to the House or any hon. member thereof. I hope that the Committee as well as the House would accept this expression of regret and would accordingly discharge the notice'."

- (iii) "The Committee would not like to look at this matter with a view to punish an offending person who commits a breach of privilege. If the finding in the present case serves as a warning, that in the Committee's view, should satisfy the requirements of the case. In any case, in view of the apology tendered by the Editor of the paper and the expression of regret by him, the Committee would recommend to the House that no further action need be taken in the matter."

Action taken by the House

6. No further action was taken by the House in the matter.

497

RAJYA SABHA

(1967)

Point of privilege

Alleged reflections on the conduct of members and proceedings of Parliament by a newspaper.

Facts of the case and reference to the Committee of Privileges

On the 5th June, 1967 Shri Chandra Shekhar, a member sought to raise a question of privilege against the Editor of the *Hindustan Times* for certain observations contained in a feature article captioned "National Affairs" with a sub-title "Shades Of The

Star Chamber", published in its issue dated the 4th June, 1967. Shri Chandra Shekhar quoted the following passages of the article as objectionable:

- (i) "The proposition has only to be put in this manner to recognize the absurdity of it. But this is precisely what it amounts to if we are to take with any seriousness the wild charges which have been flung in Parliament against the Birlas."
- (ii) "The question that now arises is how far can we go in allowing Parliament to behave like some kind of a star chamber sitting in judgement on individuals and institutions who have no means of defending themselves without undermining democracy itself. There are a hundred ways in which malefactors can be brought to book—even if they happen to be Birlas—but there are not many remedies against those who use the freedom of an open democratic society for the express purpose of subverting it."
- (iii) "The first thing to do is to establish some norms in public discussion, not only in Parliament but outside it. The century-old libel law is completely obsolete in to-day's conditions. It has become an instrument in the hands of blackmailers and subverters. That law must be changed at once and brought in line with modern law in this matter elsewhere in the democratic world."
- (iv) Restraining members of Parliament is more difficult but while privilege may continue to apply to what is said in Parliament, that privilege need not extend to published reports of discussion in Parliament."

Shri Chandra Shekhar contended that the article had offered indignities to the House and its members and the author of the article had tried to indicate that the members, while debating the Hazari Report, had adopted means to subvert parliamentary democracy. This, he felt, constituted a breach of privilege and contempt of the House.

2. After the House granted leave to the matter being raised, the Minister of External Affairs and the Leader of the House, (Shri M.C. Chagla) moved, and the House adopted, the following motion:

"That the complaint of breach of privilege raised by Shri Chandra Shekhar be referred to the Committee of Privileges with instructions to report by the end of the next session."

Findings and recommendations of the Committee

498

RAJYA SABHA

(1967)

3. The Committee of Privileges in their Tenth Report presented to the House as the 14th August, 1967, reported *inter alia* as follows:

- (i) "The Committee has gone through the impugned article in the *Hindustan Times* carefully. It is true that the writer of the article has used strong language and has expressed himself equally strongly in relation to certain discussions that took place in the Rajya Sabha concerning the House of the Birlas. Nevertheless, the Committee feels that it is not necessary to attach undue significance to such writings and thereby bring them within the ambit of the privilege of the House. The article taken as a whole does not in the opinion of the Committee, constitute a breach of privilege of contempt of the House. In this connection the Committee would like to quote, with approval, what Mr. Gladstone observed in a privilege case in the House of Commons in what was known as *The Times* case in 1888:

'Breach of privilege is a very wide net and it would be very undesirable that notice should be taken in this House of all cases in which hon. members are unfairly criticized. Breach of privilege is not exactly to be defined. It is rather to be held in the air to be exercised on proper occasions when, in the opinion of the House, a fit case for its exercise occurs. To put this weapon unduly in force is to invite a combat upon unequal terms wheresoever and by whomsoever carried on..... Indeed, it is absolutely necessary that there should be freedom of comment. That freedom of comment may, of course, be occasionally abused; but I do not think it is becoming the dignity of the House to notice that abuse of it.'

- (ii) "In the view taken by the Committee, in the circumstances of the case, the Committee recommends that no action is called for on this complaint."

Action taken by the House

5. No further action was taken by the House in the matter.

Point of Privilege

Alleged reflections on the conduct of a member by the members of the other House

Facts of the case and ruling by the Chairman

On the 22nd June, 1967, Shri Bhupesh Gupta, a member sought to raise a question of privilege on the ground that Shri Arjun Arora, another member, was made the subject-matter of a privilege motion and accused in the other House on the 21st June, 1967, for the charges levelled by him against the two Ministers being in the pay of Birlas *vis-a-vis* the statement made by the Prime Minister exonerating them. This, he felt, constituted a breach of privilege and contempt of the House.

2. The Chairman (Shri V.V. Giri), observed as follows:—

"I have given great attention to this matter. We have discussed this question almost *ad nauseum*, and having given some consideration and having heard the hon. member Mr. Bhupesh Gupta my point of view is this. The point is no action was taken by the other House against our member. If action had been taken we would have taken notice. We should not discuss what has happened in Lok Sabha. The Speaker stated that he could have taken action himself but he was in doubt and he thought it better to leave the matter to the judgement of the House whether the complaint should be referred to the Chairman of the Rajya Sabha for necessary action. In fact I have read the Lok Sabha motion. I do not want to read it again. In view of this I feel that no further discussion on this matter should take place."

499

RAJYA SABHA

(1967)

Point of privilege

Alleged reflections on the conduct of a member by a newspaper

Facts of the case and ruling by the Chairman

On the 24th November, 1967, Shri Rajnarain, a member, sought to raise a question of privilege against the *Times of India* on the ground that the

following news item, published in its issue of the same day, cast reflections on the conduct of Shri Loknath Misra, another member:

"In an obvious attempt to divert the fury of the House against the Birlas, the Swatantra member. Mr. Lokanath Misra, asked whether it was a fact that the Home Minister's brother's son, Mr. Ashok Chavan and his brothers-in-law had practically all the agencies for Birlas in Maharashtra."

This, he felt attributed motives to a member and therefore, constituted a breach of privilege.

2. The Chairman (Shri V.V. Giri) asked Shri Raj Narain to give a notice in writing and added that he would then look into the matter.

3. On the 29th November, 1967, the Chairman informed the House as follows:

"At the sitting of the House on November 24, 1967 Shri Raj Narain sought to raise a question of privilege in relation to a news item appearing in the *Times of India* of that date. I observed at that time that Shri Raj Narain should give me a notice in writing. Shri Triloki Singh and Shri Raj Narain submitted a notice on the same day.

After receiving the notice, I directed the Secretary to write to the Editor of the *Times of India* and enquire from him whether he wished to say anything in the matter before I took further action. The Resident Editor of the newspaper has, in his reply dated November 28, 1967, made the following submission:

'I want to assure the honourable Chairman of the Rajya Sabha that in publishing the particular passage in the report it was far from our intention to attribute any motive to Mr. Lokanath Misra or any other honourable member of the Rajya Sabha. If, however, the passage in question has, by any chance, been misunderstood. I want to express my sincere regret for the inadvertence in publishing the passage.

I do want once again, to assure the honourable Chairman of the Rajya Sabha that the *Times of India* has always stood for protecting the dignity and privileges of India's sovereign Parliament and would never say or do anything that would in any way detract from its dignity.'

In view of this express of regret by the Editor, I feel that the matter need not be pursued further and should be treated as closed."

4. The matter was then closed.

500

RAJYA SABHA (1969)

Point of privilege

Alleged aspersions on the House by a member of the other House in a press statement.

Facts of the case and ruling by the Vice-Chairman

On the 24th December, 1969, Shri Krishan Kant, a member, sought to raise a question of privilege against His Highness Maharaja Sriraj Meghrajji Dhrangadhra, member, Lok Sabha, for issuing a statement to the Press, allegedly casting aspersions on the House. The impugned press statement *inter alia*, read as under:—

"The passing of the resolution in the Rajya Sabha opining that the Government should take steps for the abolition of the privy purses and privileges of exrulers was reminiscent of the way the initial resolution was pushed through a quorum-less A.I.C.C.

The House, the senior of our two national assemblies, was again over-borne by elements evidently in alliance to which it seems to have become subject."

Shri Krishan Kant alleged that in his press statement, Maharaja Dhrangadhra had cast aspersions on the working of the House and on its members and thus had committed a breach of privilege of the House.

2. After a brief discussion, disallowing the question of privilege, the Vice-Chairman (Shri Akbar Ali Khan, who was in the Chair) ruled *inter alia* as follows:—

".....I have also noted that this very matter had been taken up with the Chairman and he in his full power and discretion disallowed it. That is enough for me not to allow this matter to be raised again.... the fact that the person who has made this remark is a member of the other House, gives me still further consideration that we should restrain ourselves. So, I disallow permission to raise this matter."

501

RAJYA SABHA
(1970)

Point of privilege

Alleged derogatory remarks against a member by another member in the House.

Facts of the case and ruling by the Deputy Chairman

On the 1st April, 1970, Shri M.S. Gurupadaswamy, a member stated that on the 31st March, 1970 Shri Niren Ghosh, another member had made certain derogatory remarks in the House against Shri Raj Narain, another member. He said that Shri Niren Ghosh had remarked that Shri Raj Narain was in the pay of Shri C.B. Gupta. Shri Gurupadaswamy urged the Deputy Chairman (Shri B.D. Khobragade), who was then in the Chair, to ask Shri Ghosh to withdraw his remarks and to express regret.

2. After some discussion, the Deputy Chairman observed as under.

"Actually Mr. Niren Ghosh should not have used such language. Such remarks are not in consonance with the dignity and decorum of the House. Perhaps he might have used this language in the heat of passion. But undoubtedly the language used was deprecatory and hon. members should not use such language which will mar the dignity and decorum of the House. We have discussed the matter at length. The reports have allready been prepared and, therefore, it will not be possible to expunge these remarks of something like that. But such deprecatory language should not be used and I hope Mr. Niren Ghosh also in future will not use deprecatory language. He should not use such language and no other hon. member also should use such language."

502

RAJYA SABHA
(1970)

Point of privilege

Reflections on members by a newspaper

Facts of the case and action taken by the House

On the 17th December, 1970, Shri A.P. Chatterjee, a member, sought to raise a question of privilege against the printer and publisher of *Kerala Kaumudi*, a Malayalam daily, for publishing a news

report that Shri Bhupesh Gupta, another member had stated at one of his election meetings in Kerala, that the Marxist members had opposed the Constitution (Amendment) Bill regarding Privy Purses after accepting bribe. In this connection, Shri Chatterjee stated that according to a letter received by him from the Chairman, Rajya Sabha, Shri Bhupesh Gupta had denied that he had made any such speech. It was further stated in that letter that the printer and publisher of *Kerala Kaumudi* had offered their regrets for publishing the said news report and that the matter was therefore being treated as closed. Shri A.P. Chatterjee urged that the matter should not be treated as closed and it should be brought before the House.

2. The Deputy-Chairman (Shri B.D. Khobragade) observed that the printer and publisher of the *Kerala Kaumudi* had been asked to publish their regret in the newspaper, as desired by Shri A.P. Chatterjee, and their reply was awaited.

3. On the 5th April, 1971, the Chairman, (Shri G.S. Pathak) informed the House:—

....I received notices of breach of privilege on the 9th November, 1970, from Shri A.P. Chatterjee and Shri K. Subramania Menon against Shri Bhupesh Gupta, a member of this House, and also against the editor, printer and publisher of *Kerala Kaumudi* a Malayalam daily, published from Trivandrum, in respect of a news report published in the said daily in its issue dated the 16th September, 1970, to the effect that Shri Bhupesh Gupta at an election meeting held at Kayamkulam on the 14th September, 1970, had stated that the Marxist M.Ps. had received bribe from the former rulers and vested interests and had opposed the Privy Purses Bill.

The matter was referred, under my direction to Shri Bhupesh Gupta and Shri Sukumaran, printer and publisher of the said daily, enquiring whether they had anything to say in the matter.

Shri Bhupesh Gupta in his letter dated the 20th November, 1970, stated that he had never uttered those words or expressed any such views as attributed to him in the said news item. In view of this, there was no case of breach of privilege against Shri Gupta and I withheld consent accordingly.

Shri Sukumaran, printer and publisher of

the *Kerala Kaumudi* in his letter dated the 27th November, 1970, explained the circumstances in which the impugned news item came to be published in his paper. In the letter Shri Sukumaran pointed out that Shri Bhupesh Gupta's speech was published by them in good faith and that since objection had been taken to it by some members, he expressed regret and requested that his regret may be conveyed to those members.

Thereafter, the Rajya Sabha Secretariat asked Shri S. Sukumaran to publish in a prominent place in the paper his expression of regret for the publication of the offending news item. Shri Sukumaran has since then published an apology on the first page in the issue of *Kerala Kaumudi* of 23rd December, 1970, under the caption 'We regret'.

In view of the expression of regret made by the printer and publisher of the *Kerala Kaumudi* if the House agrees, the matter may be treated as closed."

The House agreed and the matter was closed.

503
RAJYA SABHA
(1973)

Point of privilege

Alleged reflections on Rajya Sabha in a speech by a member in Lok Sabha as reported by a newspaper

Facts of the case and ruling by the Chairman

On the 31st March, 1973, Shri V.K. Sakhlecha, a member, sought to raise a question of privilege arising out of a speech in Lok Sabha by Shri Bibhuti Mishra, a member of that House on the 30th March, 1973, while moving his resolution for abolition of the Rajya Sabha, as reported in the Hindi daily *Hindustan* of the 31st March, 1973. While raising the matter, Shri Sakhlecha stated, *inter alia*, as follows:—

"Sir, I would like to draw the attention of this august House to a news item entitled '*Rajya Sabha Rajneetik Bhrashtachar Ka Kendra—Shri Bibhuti Mishra*' published in today's *Hindustan*. Shri Bibhuti Mishra who is a senior Congress member has made a statement to this effect in Lok Sabha. Shri Mishra has moved a private member's

resolution for abolition of the Rajya Sabha in which he has stated that the Rajya Sabha is a centre of political corruption. Sir, my contention is that this is casting aspersions on this House.... Rajya Sabha is a body constituted under the Constitution....

Several members of this House have been elected many times to State Legislatures and Lok Sabha. It is a clear breach of privilege of this House and its members to say that they have never faced elections.

Sir, to say that all the members who come here are elected through political corruption is absolutely wrong and this would lead to a breach in relations between Lok Sabha and Rajya Sabha.

I submit that if Shri Bibhuti Mishra has not said that the Rajya Sabha is a centre of political corruption, then the newspaper concerned has committed a contempt of this House by publishing the proceedings in this manner. In that case, I may be allowed to raise a question of privilege under rule 187. If he has made such a contemptuous comment about this House, then you should write to the Speaker of that House to withdraw such words... People read the newspapers and not the proceedings. It has been published by the newspaper that the Rajya Sabha is a centre of political corruption and this amounts to contempt of this House and its members."

2. After some discussion, during which several members desired the matter to be referred to the Speaker, Lok Sabha, the Chairman (Shri G.S. Pathak) observed as follows:—

"I think that the tradition has been that each House and its members show proper respect to the other House and its members. I am sure this House and its members will always follow this tradition. I wish the best of relations to prevail between the two Houses and the respective members thereof. I shall communicate the views expressed here to the Speaker. I also wish to say that newspapers should be very careful in matters like this. If Lok Sabha proceedings have not been correctly reported by any newspapers, it is for the Lok Sabha to take action proceedings in relation to this matter shall be sent to the Speaker."

3. On the 30th April, 1973, the Chairman informed the House, *inter alia*, as follows:—

“I wrote to him (the Speaker) on the 2nd April, 1973, enclosing the relevant extracts of the proceedings of the Rajya Sabha of March 31, 1973 for such action as he might think appropriate. The Speaker in his reply dated the 5th April, 1973, made the following observation:—

‘..... I have gone through the speech of Shri Bibhuti Mishra, as contained in the Lok Sabha cyclostyled debate of March 30, 1973. I find therefrom that Shri Bibhuti Mishra did not say in his speech what is attributed to him in the aforesaid caption of the news report. I am sending herewith a copy of the day’s debates of Lok Sabha for your perusal.

I fully share your views about the cordial relations between the two Houses of Parliament and also their members.

Obviously, that newspaper has given a highly misleading caption. We are taking up the matter with the Editor of the newspaper.

I also appreciate the concern as shown in the speeches of the hon. members of your House. Please assure them on behalf of the Lok Sabha and also myself that we hold them in utmost respect and high regard’.

On the 22nd April, 1973, I received another communication from the Speaker with which he forwarded a copy of the announcement he had made in the Lok Sabha on the 19th April, 1973. Therefrom, I observe that the Editor of *Hindustan* had issued a correction in the issue of the paper dated the 2nd April, 1973, wherein it had been stated that Shri Bibhuti Mishra, M.P., did not say in his speech that ‘Rajya Sabha Rajneetik Bhrashtachar Ka Kendra—Shri Bibhuti Mishra.’

The Editor also expressed regret and requested the Speaker to condone the error on the part of the paper. I also find that in view of the explanation given by the Editor and the correction published by him, the Lok Sabha has closed the case. At the end of the said announcement, the Speaker also observed:—

‘May I take this opportunity to appeal to the hon. members to use necessary restraint and not say anything in this House which may bring disharmony between this House and Rajya Sabha.’

In the circumstances, I am treating the matter as closed.

504
RAJYA SABHA
(1974)

Point of privilege

Casting reflections on the House in a communication allegedly written by the President of a Co-operative House Building Society to Lt. Governor of Delhi.

Facts of the case and reference to the Committee of privilege

On the 10th May, 1974, Shri Bhairon Singh Shekhawat, a member, sought to raise a question of privilege against Shri Jagjit Singh, President, New Friends Co-operative House Building Society, for casting aspersions on the House in a letter dated the 7th May, 1974, alleged to have been written by him to Shri Baleshwar Prasad, the then Lt. Governor of Delhi. While producing a photostat copy of the impugned letter, Shri Shekhawat contended that the language used in the letter and more particularly the following two sentences written therein amounted to breach of privilege and contempt of the House :—

“I have assessed the situation and feel it will not be possible for me and committee to stand the opposition in view of the Court’s attitude and its further exploitation in Parliament and Papers, unless full support from police and Registrar, Societies is afforded much more than ever.

Since you are busy due to riots in the City, I will give the notice in newspapers only when I get green signal. *It is good that Parliament closes on or before the 13th May, 1975.*”

2. On a motion moved by Shri Shekhawat, the matter was referred to the Committee of privileges by the House.

Findings and recommendations of the Committee

3. The Committee of Privileges, after examining Sarvashri Bhairon Singh Shekhawat and Jagjit Singh and also on perusing the material called for by the Committee from the then Lt. Governor of Delhi and Shri Jagjit Singh, in their Fifteenth Report, presented to the House on the 18th February, 1975, reported *inter alia* as follows:—

(i) “....the Committee examined the different aspects of the statement made by

Shri Shekhawat in the light of letters received from Shri Jagjit Singh and the Lt. Governor of Delhi wherein both of them had denied having written or received such a letter. The Committee felt that since Shri Shekhawat had neither seen the original letter nor had any knowledge of its present whereabouts and also because of his inability to produce before the Committee the person who had given him the photostat copy of the impugned letter or to give any help to the Committee in the matter, a stage had been reached where it was not possible for the committee to lay hands on the original letter even if it existed. The Committee, therefore, had perforce to decide the case on the basis of the materials already before it."

- (ii) "After giving its careful consideration to the matter, the Committee did not feel satisfied about the genuineness of the photostat copy of the alleged letter of Shri Jagjit Singh. In view of this, the Committee did not like to examine on merits the question as to whether or not the contents of the alleged letter constituted a breach of privilege or contempt of the House."
- (iii) "The Committee, however, felt that any member who would desire to raise a question of breach of privilege in the House on the basis of any document should be circumspect and should satisfy himself about its genuineness before-hand."
- (iv) "In the view taken by the Committee and in the circumstances of the case, the Committee recommends that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

4. No further action was taken by the House in the matter.

505

RAJYA SABHA

(1978)

Point of privilege

Alleged disrespect shown to the House by a Minister by leaving in the midst of a discussion on a matter relating to his Ministry

For details of the case please see summary No. 213 at p. 348 ante.

506

RAJYA SABHA

(1978)

Point of privilege

Alleged objectionable remarks made by a Minister against a member in the House

Facts of the cases and ruling by the Deputy Chairman

On the 25th July, 1978, Shri Bhupesh Gupta, a member, while asking supplementary to a Starred Question stated, *inter alia*, as follows:—

"...Now Sir, I should like to know whether these factors were taken into account. I think while the hon'ble Minister was speaking, I felt he was almost speaking like an EEC Commission agent, how good EEC will be ...".

2. Replying to the above remarks, the Minister of Commerce and Civil Supplies and Co-operation (Shri Mohan Dharia) stated as under:—

"There is no question of prompting. My hon. friends know about agents. Those who have done nothing else but agency work of other countries cannot understand our language, unfortunately. But we are not of that type."

3. A little later on the same day, Shri Bhupesh Gupta sought to raise a question of privilege against the Minister of Commerce and Civil Supplies and Co-operation (Shri Mohan Dharia) for saying during the course of answering supplementaries to the Starred Question that "Agents of other countries only ask questions like that". While raising the matter, Shri Bhupesh Gupta stated, *inter alia*, as follows:—

"....He has made certain most disparaging, unworthy remarks...The matter should go to the Privileges Committee...Sir, sometimes from the opposition, when we ask questions as private members, we do have some side remarks, sometimes in a humorous way and sometimes also in an acrimonious way perhaps. But the kind of reply Mr. Dharia gave I did not expect from him....

Well it is not the way to answer questions and unfortunately, the Chair also did not pull him up....I am not interested as such in a privilege motion. You know it very well, I am not one of those who rush to the Privileges Committee but it does involve

some of the privileges of the members; it is not to be said directly or indirectly that they are the agents of other countries...I do not ask Mr. Dharia to express regret or do anything like that. I should be very happy if he says he is sorry for what he said. And it would be good enough to tender an apology to the House, not to me. I am not important.....if Mr. Dharia does not express regret, I can tell you I for one will not allow Mr. Dharia to speak in this House. You have the powers to expel me from the House. Let it be known to the country that Bhupesh Gupta has been expelled from the House for having not allowed Mr. Dharia to speak....This is not a threat. I say this out of anguish and feeling about a person for whom I have almost an affection."

2. The Minister of Commerce (Shri Mohan Dharia) thereupon stated *inter alia*, as follows:—

"Mr. Deputy Chairman, Sir, at the outset I would like to make it very clear that when my friend, Mr. Bhupesh Gupta, feels agitated and when his feelings are hurt, equally my feelings are hurt. But the context should not be lost. I do appreciate the advice of Mr. Bhupesh Gupta that whether he is a member or a Minister nobody should be arrogant. I would never like to be arrogant. If I happen to be arrogant against him, it pains me perhaps much more than being arrogant against anybody else.

During the course of the question—perhaps Mr. Bhupesh Gupta might have forgotten or perhaps he might not have—the hon'ble Bhupesh Gupta said:

'Now, Sir, I should like to know whether these factors were taken into account. I think while the Hon'ble Minister was speaking. I felt he was almost speaking like an EEC commission agent, how good EEC will be'.

Is this the language to be used by Mr. Bhupesh Gupta? And, Sir, if such sort of language is used by Mr. Bhupesh Gupta and if some retaliation is there, then Mr. Bhupesh Gupta should have the sportsman spirit. I have here, Sir, this statement by Bhupesh Gupta and also my statement which I read. These are from the Rajya Sabha records (uncorrected):

'There is no question of prompting. My Hon. friends know about agents. Those who have done

nothing else but agency work of other countries cannot understand our language, unfortunately. But we are not of that type.'

I feel that both these statements should go to the Privileges Committee and there is no question of apologies, there is no question of regrets. ..If Mr. Bhupesh Gupta is prepared to withdraw I will withdraw my part of the statement. Otherwise I would very much like that this affair should go to the Privileges Committee..If I have committed something wrong, certainly I will come before this House and apologise. But under threat that Mr. Dharia will not be allowed to speak in this House, he knows very well that under threat I have never worked. If Mr. Bhupesh Gupta is under that impression, I am sure this House will take care. It will not allow such members who will not abide by the rules of this House."

3. While closing the matter, the Deputy Chairman (Shri R.N. Mirdha) observed as under:—

"We do not have a motion for discussion. So there is not going to be any discussion on it. Mr. Bhupesh Gupta raised a point. I do not take it as a privilege motion because there are procedures for making a privilege motion. What I believe is that he was hurt on a certain point and due to his seniority and all the respect for him we gave him time to express his views. Mr. Dharia also expressed his own point of view. If either of them wants to send the matter to the Privileges Committee, we have a procedure for that. But we are not going to treat this as a privilege motion right now. That is why I say that we leave it at this and go over to the next item. Let them think about it calmly and coolly and see if it is to be proceeded further or left at this."

507

RAJYA SABHA
(1980)

Point of privilege

Certain allegations against a member made by a Minister who was a member of the other House

Facts of the case and ruling by the Chairman

On 6th August, 1980, Shrimati Margaret Alva, a member, while speaking on "The Working of the

Ministry of External Affairs" stated, *inter alia* as follows:—

"We have really been known.....for our positive support to the freedom fighters, particularly in South Africa. I would here like to say that during the Janata regime I had in this House raised the question of the sale of the Centurian Tanks, which had been sold as scrap and which ultimately found their way to South Africa with Indian markings and which did create a very bitter impression among our friends there. I have just come back from London, and what I heard there shocked me. The same Mr. W.R.M. Michele who is an agent for arms supplies to the Pentagon as well as the racist regime in South Africa—I could give you his address—it is: 30, Milners Street in London. He is receiving here a V.I.P treatment, I am told, to negotiate purchase of 200 more Centurian Tanks from the present Government."

2. On 18th August, 1980, Shrimati Alva, while making a statement regarding "Alleged Deal for Sale of Spare Parts of the Centurian Tanks", stated *inter alia*, as follows:—

"....The spare parts deal has been rushed through by the Government under the directions of the Minister of State for Defence Production... There have been objections from the Army Headquarters. I also want to point out that the Ministry of External Affairs which is normally consulted in these matters, has not been consulted...And here I would like to say before this House that this Mr. Michele whom I had named in this House has been ringing me up frantically from London for the last week trying to tell me that I should not create problems for him and that he is a very good and honest man not an agent of the Pentagon as I had said."

3. On 17th November, 1980, the Minister of State in the Department of Science and Technology (Shri C.P.N. Singh), a member of Lok Sabha, made a personal explanation in the House refuting the allegations made against him by Shrimati Alva and stated *inter alia*, as follows:

"In her statement Smt. Margaret Alva had asserted that Mr. Michele had been ringing her up frantically from London during the preceding week requesting her not to create problems for him. Sir, I have evidence to show that Smt. Margaret Alva had taken the initiative of calling him up

during her visit to London sometime in the end of July or early August 1980. Since Mr. Michele was abroad, she had left a message asking him to contact her on her return to India. I am not sure as to why an hon. Member of this House should have taken this initiatives. I leave it to the hon. Members to draw the interference."

4. On 20th November, 1980, Shrimati Margaret Alva, referring to the statement of the Minister of State in the Department of Science and Technology stated, *inter alia* as follows:—

"I wish to say in reply that I categorically deny this allegation as being untrue aimed at deliberately misleading the House and bringing me into disrepute. It is calculated at questioning my integrity and conduct as a Member of this House. And I may add, Sir, that I retain my right to go to the Privileges Committee on this."

Subsequently, several members demanded that the matter be referred to the Committee of Privileges. The Chairman (Shri M. Hidayatullah) observed, *inter alia*, as follows:—

"The point is you move me in that behalf. I will first ask the Minister about the evidence in his possession and then decide....."

* * * *

"I have to protect the honour of everyone of you. I have to protect the honour of Mrs. Alva if there is any aspersion on her integrity, I have to protect the integrity of the Minister equally—all without any favour to anybody. I shall go into this and decide."

5. On 15th December, 1980, when Shri P. Ramamurti, a member, sought to raise the matter in the House the Chairman observed *inter alia*, as follows:—

"The nature of the probe has been communicated to Mr. Sezhiyan and Mrs. Alva by me and the question is pending, how to give effect to the contradictory statements between the Minister and Mrs. Alva....because, whichever way one looks at it, one of them would be found to be misleading the House, whichever way you look. Now that this contradiction has arisen, I am going through it very carefully."

6. On 26th March, 1981, the Chairman informed the House as follows:—

"Hon. Members will recall that I had sent a matter of privilege raised by Shri Era Sezhiyan and Shrimati Margaret Alva against Shri C.P.N. Singh, Minister of State for Defence, to the Committee of Privileges. They will also recall that Shrimati Alva on 12.8.1980 made a statement alleging certain things against the Minister. The gist of it was his dealings with one Michele and the House already knows about these allegations. Shri Singh asked for an opportunity to give a personal explanation and in his explanation included a counter-charge against Shrimati Alva for which he said he had evidence in his possession. His allegation was that Shrimati Alva had herself tried first to get in touch with Michele on phone in London and later he had a telephone conversation with her from London on her return to New Delhi.

Normally there is no counter-personal explanation after the first; otherwise a matter will have no end. But as the Minister had indulged in a countercharge. Shrimati Alva was allowed to contradict him. The privilege motion followed on the ground that the Minister had deliberately made a misleading statement about Shrimati Alva's attempt to ring up Michele in London and a challenge was thrown that he should substantiate the truth of his statement that he had evidence in his possession.

I had assured the House on 20th November, 1980, that I would first ask the Minister about the evidence in his possession and then decide what to do because, as I said, I had to protect the honour of every one of you and I had to protect Shrimati Alva's fair name. If there was any aspersion on her integrity and I had to protect the Minister also.

I referred a special issue to the privileges Committee for a finding because the Minister is not a Member of this House but of the Lok Sabha and if the finding was adverse to the Minister, I would have had to consider the next step. The issue I raised was:

'Is the statement made by the Minister in the House supported by the evidence or not or was it a misleading statement?'

The Privileges Committee has now sent its finding after considering the matter on 13th January,

6th February, 6th March, 13th March and 17th March 1981. The entire verbatim record of the proceedings before the Privileges Committee is before me and I have carefully read it.

The finding of the Privileges Committee is that Shri Singh made his statement on the strength of a document in his possession, which I find is a letter from, Michele, and that he did not deliberately make a statement in the House which he knew or had reason to believe was misleading. The Committee went further and observed:

'At the same time the Committee has no reason whatever to disbelieve Shrimati Alva's statement made in the House on 20.11.1980 denying that she ever tried to contact Mr. Michele either in London or in India.'

The Committee therefore, suggested that the matter be allowed to rest there and be not pursued.

I have personally and independently looked into this matter carefully and I have reached the same conclusions. It is a pity that when I allowed the personal explanation of the Minister, I took it on trust; otherwise I would not have allowed him to stray into a counter allegation against the Hon'ble Member, I have read the transcript of the tapes. There is nothing at all in them to prove that Shrimati Alva rang up Mr. Michele in London. If anybody is to be blamed it is Michele and I think the Minister should not have placed implicit trust in what he said. I am also of opinion, on an examination of dates, etc., that Shrimati Alva's statement is absolutely truthful and there is no stain on her integrity. The Committee has also given the same finding. I also agree that the Minister himself was misled by Mr. Michele and should not have made this counter-charge on such doubtful evidence.

With these observations which protect the fair name and integrity of Shrimati Alva, I treat this matter as closed."

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RAJYA SABHA
(1980)

Point of Privilege

Casting aspersions on members of Parliament by Police Official in a press interview

Facts of the case and ruling by the Speaker

On 5th December, 1980, the Chairman (Shri M. Hidayatullah) informed the House as follows:—

“Shri Satya Pal Malik and Shri Sadashiv Bagaitkar, Members Rajya Sabha, had given notices of breach of privilege of the House against the former S.H.O. of Baghpat. Shri Gaur, and the Editor of a weekly ‘Panchjanya’ for insulting language about Members of Parliament in a press interview I take serious note of this. Shri Gaur denied having given any such interview. I called upon the Editor to explain the conduct of the newspaper. The Editor said that the news item was printed *bona fide* on information the newspaper had. The Editor however, had expressed his apologies and assured me that it was not his intention to be insulting to the Members of Parliament. In view of his regrets I am treating the whole matter as closed. The newspapers should be courteous while referring to the Members of this House. I shall take very strong note if newspapers do not follow this.”

The matter was, thereafter, closed.

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RAJYA SABHA
(1980)

Point of Privilege

Certain allegations by a member against a Minister who was a member of the other House and publication of news reports on the basis of the allegations.

Facts of the case and reference to the Committee of Privileges

On 23rd December, 1980 Sarvashri Syed Sibte Razi, F.M. Khan, Bhagatram Manhar, N.K.P. Salve, P.N. Sukul and Shrimati Manorama Pandey, members, gave notice of a question of privilege against Shrimati Margaret Alva, a member, for making certain allegations in the House on 18th August 1980, against Shri C.P.N. Singh, the then Minister of State in the Ministry of Defence and a member of Lok Sabha. The notice was also against the Editors, Printers and Publishers of news magazines, *Blitz*, *Sunday* and *Maya* for publishing news reports in their magazines on the basis of the allegations made by Shrimati Margaret Alva.

The members had, in their notice stated, *inter alia* as follows:—

“Smt. Alva in a speech made on the floor of the House on 18.8.1980, cast serious aspersions on the integrity conduct and character of Shri C.P.N. Singh, member of Lok Sabha and Minister of State. The allegations casting serious aspersions on integrity, conduct and character are listed below:

- (i) ‘The spare parts deal has been rushed through by the Government under the directions of Minister of State for Defence Production.....’
- (ii) ‘Mr. Singh has to make up the lost privy purse...’
- (iii) ‘Rs. 50.00 lakhs have been paid, I will tell you where.’
- (iv) ‘They (Janata Party) were earning commission by selling them (tanks) then and you are earning commissions by selling them now.’

These allegations are false scandalous and did incalculable damage not only to the integrity and character of Shri C. P. N. Singh but also bring into disrepute this House Shri C. P. N. Singh in his statement made in the Rajya Sabha on 17th November, 1980 by way of personal explanation under Rule 241 of the Rajya Sabha Rules denied all the above allegations.

On the basis of these allegations, reports have appeared in the issue of ‘Blitz’ dated 9th August, 1980 and subsequent dates, ‘Sunday’ dated 14th September, 1980, and ‘Maya’ of October, 1980; which are equally distorted, baseless and derogatory to Shri C. P. N. Singh. Thus there is a *prima facie* case of privilege against Smt. Margaret Alva and the Editors, Printers and Publishers of the three publications referred to.”

2. On 7th May, 1981 the Chairman (Shri M. Hidayatullah) referred the matter to the Committee of Privileges for examination, investigation and report. However, on 8th May, 1981, the Chairman directed that the consideration of the question by the Committee should stay so that he could give Shrimati Alva an opportunity to offer her comments and decide on the future course of action. Accordingly, on 12th May, 1981 a letter was addressed to Shrimati Alva, inviting her comments on the notice. After considering the comments of Shrimati Alva, the Chairman directed the Committee on 13th July, 1981, to proceed with the consideration of the question.

Finding and recommendation of the Committee

3. The Committee of Privileges, in their Twenty Third Report, presented to the House on 12th March, 1982, reported *inter alia* as follows:

- (i) "Shri Syed Sibte Razi and other members giving notice objected to the following allegations made by Shrimati Alva in the House regarding the sale of spare parts of Centurion Tanks:—

'The spare parts deal has been rushed through by the Government under the directions of Minister of State for Defence Production'.

- (ii) 'Mr. Singh has to make up the lost privy light purse...'
(iii) 'Rs 50.00 lakhs have been paid. I will tell you where'.
(iv) They (Janata Party) were earning commission by selling them (tanks) then and you are earning commission by selling them now'.

While the first three of these allegations were made by her on August 18, 1980, the fourth one was made earlier on August 6, 1980.

The members' objection was that the said allegations cast serious aspersion on the integrity, conduct and character of Shri C.P.N. Singh. Further, the allegations were false, scandalous and damaging to the integrity of Shri Singh. The allegations, it was contended in the notice, brought the Rajya Sabha into disrepute."

- (ii) "Shrimati Alva's contention on each of the above impugned statements was that while the first and the fourth allegations quoted above were made by her as a legitimate criticism of the Government policy and conduct of a Minister which a member was entitled to do in the national interest and in the discharge of duties as a member of Parliament the second and the third allegation were made by her not in her main speech but as 'off-the-cuff' remarks casting no particular aspersion on Shri C.P.N. Singh. Shrimati Alva further contended that when she said that Rs. 50.00 lakhs had been paid, she had not stated as to who or whom they were paid. In other words, she had not named the Minister."

- (iii) "The Committee has considered the impugned statements and Shrimati Alva's comments in all aspects. The Committee is of the opinion that in view of Shrimati Alva's clarification that the

particular allegations were 'off-the-cuff' remarks *i.e.* not premeditated or made deliberately to cast aspersions on the integrity of Shri C.P.N. Singh, and her own contention that there was no basis for these allegations, the matter need not be pursued further. The Chairman had by his ruling in the House on March 26, 1981, treated the entire episode as closed. The Committee also feels that the issue need not be reopened. The Committee, therefore, recommends accordingly."

Action taken by the House

4. No further action was taken by the House in the matter.

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RAJYA SABHA

(1981)

Point of privilege

Alleged misleading of the House by a Minister and alleged casting of reflections on the Minister by a journalist

For details of the case please see summary No. 283 at pp. 486—489 ante.

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RAJYA SABHA

(1981)

Point of privilege

Alleged casting of reflections on members by a newspaper

Facts of the case and ruling by the Chairman

On 22nd December, 1981, the Chairman (Shri M. Hidayatullah) observed in the House as follows:—

"On December 7, 1981 Shri A.G. Kulkarni gave notice of breach of privilege against Shri Prem Shankar Jha in respect of a signed article entitled 'Black Money and Crime' which was published that day in the *Times of India*, the article commences with the following sentence:

'Dacoits, smugglers and bootleggers are now honoured member of the Legislatures.'

On 8th and 14th December, Shri Kulkarni mentioned this matter in the House. I then assured the House that I would give my ruling on the subject.

In accordance with the practice of the House, I directed that the writer may be asked to explain. The Editor Shri Girilal Jain, has chosen to reply.

The Editor has made the point that as there is no reference at all to Rajya Sabha, the matter can not be raised here. This is disingenuous in the extreme. General statements of this type may not escape only because, when examined piecemeal, none of the Houses of Parliament or Legislatures can be held to be directly referred to although the statement must be held to cast a slur on all of them. It is then not a libel of any particular member or of any particular House but a libel in gross.

One does not know what the writer or the Editor seeks to achieve by such a sweeping calumny. It is purposely made general to afford shelter to the writer against action from a member of a House of Legislature and also from individual Houses of Legislatures. Indeed, the Editor gives himself away when he says;

'As you know the country's libel laws as they stand expose a newspaper to the risk of incurring the charge of defamation and the harassment it causes (if) it names any legislator. If we do not name any one it does not follow that the newspaper is impugning the integrity of all legislators in the country. The English language does not admit of any such interpretation.'

Therefore, if you are afraid to charge a newspaper for being in the pay of a foreign country, you have only to say that all of them are in the pay. The wording has been cleverly chosen not out of one's strength of conviction but out of fear of another kind of conviction. When Shri Kulkarni spoke of the 'permissive atmosphere' in the country the Editor protested that it implied that the description was applicable to the *Times of India*. The impugned sentence mentions 'dacoits', 'smugglers', 'bootleggers' and legislators.' This profuse employment of the plural number discloses an intention to traduce legislative institutions generally and it may well have been deliberately employed to show that legislators are universally tainted. This construction the English language does admit.

The question, however, remains whether the custom and usage of this and other Parliaments allow that notice be taken of such scurrility. On the whole, all agree that such writings are beneath notice and may be treated with contempt. I accept this conclusion in this case.

Shri Kulkarni also referred to some observations I made in another case. I had then said:

'Newspapers always look into things closely and critically.'

I held that the writer there was 'doing a journalistic duty according to his lights.' That writer had interpreted the evidence in a way which was not acceptable on a proper examination of facts. His fault was that while reaching a conclusion, he used intemperate language and I deprecated this. I left him free to hold his own views while he did his journalistic duty, only pointing out that evidence did not really lead to his conclusion.

This case has not even this saving grace but as its generality is destructive of its own purpose. I have chosen not to take action. It is only when a point is reached and the writing ceases to be journalistic vapouring and becomes an improper obstruction to the functioning of Parliament and its members by patent falsehood or otherwise, that action to the extent of punishment is called for. Then the House will never hesitate to do its duty towards itself. This is not that case and what I have said is sufficient and I let the matter stand."

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RAJYA SABHA
(1983)

Point of privilege

Casting of reflections on members in a press interview by a foreign national

Facts of the case and reference to the Committee of Privileges

On 10th and 11th August, 1983, Shri Shiv Chandra Jha and Shri Era Sezhiyan, members, gave separate notices of a question of privilege against Shri Swaraj Paul a London based industrialist who was not a national or citizen of India, for allegedly casting reflections on Shri R.R. Morarka and Shri Jagdish Prasad Mathur, the then members, in a press interview published in a Bombay weekly *Sunday Observer* in its issue dated 7—13 August, 1983. The members' complaint related to the following observations in the interview:—

"What is really disgraceful is this M.P. J.P. Mathur and that first class thief R.R. Morarka. These people make statements in Parliament that I am

investing Mrs. Gandhi's black money from Swiss Banks. If they have the courage let them make this statement in London—and I will not leave them for the rest of their lives. Because these idiots do not know what statements to make. And it is disgraceful that Parliament should have allowed them to get away with it."

Shri Sezhiyan had also requested that action be taken against the Editor, Printer and Publisher of the *Sunday Observer* for publishing the impugned interview.

Later on, Shri L.K. Advani, a member, also gave a notice of a question of privilege against Shri Swaraj Paul and the Editor, Printer and Publisher of the *Sunday Observer* for alleged breach of privilege and contempt of the House arising out of the same matter.

2. On 1st December, 1983, the Chairman (Shri M. Hidayatullah) after considering the notices of question of privilege and the explanations received from the Editor of the *Sunday Observer* and Shri Swaraj Paul on the matter, referred the matter to the Committee of Privileges with the following observations:—

"I have found no guidance in any of the books on the subject of Parliamentary practice as to the jurisdiction over a person who is not a national or a citizen of India, and the procedure to follow in such cases. As this is a case of first impression, I considered it proper to refer the case to the Committee on Privileges under Rule 203 of the Rules of the Council of States for examination and report to me. As to the newspaper, that will be taken up later."

Findings and recommendations of the Committee

The Committee of Privileges in their Twenty-fifth Report presented to the House on 18th January, 1985, reported *inter alia* as follows:—

(i) "At its sitting held on December 2, 1983, the Committee decided to refer the issue regarding the jurisdiction of the Committee over foreign nationals for any breach of privilege or contempt committed by them while in India to the Attorney General of India for opinion....The opinion of the Attorney General was received by the Committee in February, 1984... The Committee notes that the Attorney General has expressed the view that Parliament can exercise jurisdiction in *personae*

against a foreign national for contempt committed by him within the country."

- (ii) "It is now well established that it is a breach of privilege and contempt of the House to make speeches or to print or publish any libels reflecting on the character or proceedings of the House or its Committees, or on any member of the House for or relating to his character or conduct as a member of Parliament. Words or writings reflecting on the House or its members have constantly been punished on the principle that such acts tend to obstruct the House in the performance of its functions by diminishing the respect due to it. It has further been held that written imputations affecting a member of Parliament may amount to breach of privilege without being libels at common law, provided such imputations concern the character or conduct of the member in that capacity."
- (iii) "In his letter dated August 31, 1983, Shri Swaraj Paul has, in a lengthy explanation, justified the impugned observations in the interview. He has subjected the speeches of Shri Morarka and Shri Mathur to a detailed analysis and close scrutiny with the purpose to refute these slanderous attacks on my family, my companies and myself as untruthful, unjustified and damaging to our legitimate interests in Britain as well as in India. Shri Paul has also contended that the words 'first class thief' and 'idiots' used by him related wholly to the concerned members as individuals and referred to their general conduct outside more than inside the House. So far as the expression 'disgraceful' in relation to Parliament was concerned he has stated that it was 'no more than a legitimate expression of opinion' on his part."
- (iv) "After careful consideration the Committee feels that the explanation of Shri Paul in justification of his impugned remarks is neither cogent nor convincing. The Committee feels that Shri Paul has used strong and intemperate words to describe the speeches of Shri Morarka and Shri Mathur in the Rajya Sabha and reacted to them in haste and in a harsh manner. It is unfortunate that Shri Paul should have used objectionable words in relation to Parliament and its

members. While members of Parliament are not above criticism, this criticism; the Committee feels, should be fair, factual and couched in temperate language. The Committee is constrained to observe that while Shri Paul had a right to refute the allegations made against him by Shri Mathur and Shri Morarka, he had transgressed the limits of fair comment on or criticism of the speeches of the two members. The threat held out by him against them is also, to say the least, ludicrous. What is worse is that throughout his lengthy explanation, Shri Swaraj Paul has not said anything in expiation of the aspersions cast by him on the members as well as on the institution of Parliament itself; on the other hand he has justified them and put forward a plea that he was entitled to do so. The Committee expresses its displeasure at this stance of Shri Paul."

- (v) "The Committee notes that at the beginning of his written statement, Shri Paul has stated as follows:—

'I should be grateful if you would convey to the Hon. Chairman and to all Hon. members that nothing I said in any way was intended as a reflection on the Rajya Sabha whose honour and dignity I wholly respect. As a life long admirer and upholder of India's Parliamentary democracy. I should deeply regret if any remarks attributed to me were to be construed as a breach of Parliamentary privilege.'

The Committee would have much appreciated if Shri Paul had appropriately tendered an apology. Nonetheless the Committee is inclined to accept the above words of Shri Paul in a spirit of forgiveness and to recommend that the House will serve its own dignity if it proceeds no further in the matter."

- (vi) "So far as the Editor of the Weekly 'Sunday Observer' is concerned, the Committee notes his explanation that he had published Shri Paul's interview, which was taperecorded, *ipsissima verba* at the instance or insistence of Shri Paul. It would have, however, been better if the Editor had used a little circumspection and omitted the impugned words when they were not in good taste and defamatory of members of Parliament instead of mechanically reproducing and giving them publicity in print.

Be that as it may, the Committee recommends that as in the case of Shri Swaraj Paul, no action need also be taken against the Editor, Printer and Publisher of the Weekly.

- (vii) "The instant case has also brought into focus an unsavoury aspect of the matter. The Constitution guarantees to members freedom of speech and action in Parliament. This freedom does not, however, involve any unrestrained licence of speech within the walls of the House. It is against the rules of Parliamentary debate and decorum to make defamatory statements or allegations of incriminatory nature against any person and the position is all the worse if such allegations are made against persons who are not in a position to defend themselves on the floor of the House. The privilege of freedom of speech can only be secured if members do not abuse it. In this connection, the Committee may like to quote with advantage the following observations from a Report of the House of Commons Committee of privileges:—

The privilege of freedom of speech is an important and necessary element in the work of Parliament. However, because of the immunity it confers, its misuse can have serious effects. Your Committee are well aware that from time to time Members, in their anxiety to make their point, may use their privilege of freedom of speech in a way which because of the harm which it may do to other important rights or freedoms and the disproportionate damage which may result to individuals who could otherwise seek the protection of the Courts of Law, would be regarded by other members as quite unjustifiable. Your Committee therefore consider it right to emphasise the obligation upon all Members to have regard, in any decision to make statements in the House, which if made outside the House, would be defamatory or even criminal, to the widespread effect of such statements when reported through newspaper reports and broadcasts or proceedings and to the prejudice and possibly undeserved injury which may result individual citizens who have neither remedy nor right of reply."

The Committee is in full agreement with these observations. The Committee, however, regrets that Shri J.P. Mathur in making

baseless allegations against the then Prime Minister failed to observe the self-regulatory and salutary restraints while exercising his right of freedom of speech in the House."

- (viii) "With these observations, the Committee recommends that the matter may be allowed to rest there and be not pursued further."

Action taken by the House

4. No further action was taken by the House in the matter.

513

RAJYA SABHA

(1983)

Point of privilege

Alleged casting of reflections on members and the House by a member in a newspaper column

Facts of the case and ruling by the Chairman

On 16 August, 1983, the Chairman (Shri M. Hidayatullah) observed as follows:—

"A number of hon. members have given notice of breach of privilege against Shri Khushwant Singh, a member of our House and a professional journalist. This is in respect of his well-known column headed 'With Malice Towards One and All' appearing in the *Hindustan Times* of the 6th of this month. The first gravamen of their charge is that in that column, Shri Khushwant Singh has extracted and indirectly applied to members of our Parliament certain passages from the writings of an English author. That author had criticised politicians generally and in particular the members of Parliament for voting in their own favour to raise their own emoluments.

That there has been criticism in England over the move of members of the British Parliament to vote increase in their pay packets is a fact well-known. The English author described them as overpaid and over-privileged. The English author had used very strong language, but the impugned writing, after quoting the passages, asked whether anyone in India could use the same language about the members of the Indian Parliament and get away with it. The impugned writing avers here that Indians also do not hold politicians in esteem and although

people speak of them as 'a bunch of thieves' none dares say that in writing or in print. After quoting some very sizzling passages from the English author, the impugned writing goes on to promise that the writer would himself vote against the proposed increase in the emoluments of the members.

Thus Shri Khushwant Singh has used another writer's words but described the original context in which they were used and in this clever manner not exposed himself. As he is a member of Parliament and thus potentially a politician what he says applies to him also. He is careful enough not to say anything directly about any member and has only drawn a parallel. He reminds one of Dr. Johnson who wishing to criticise a lawyer said, 'Sir, I could say many things about him but I must not forget that he is an attorney'. Shri Khushwant Singh is aware of the Privileges of this House and thus merits the description of Addison by Pope 'willing to wound but afraid to strike'. He may be left to his wishes and also to his fears. If politics is bad and membership of Parliament is not to be commended. It is good for him to remember that a man is known by the company he keeps.

Next the impugned writing goes on to discuss another topic which is headed: 'What is a dogsbody?' It is explained by him that his expression was applied first to a midshipman, the juniormost officer on a naval ship, and it was next applied to a new member of Parliament. I have not looked into the etymology of the word. I accept what he says. The writer is himself a member of Parliament and a new member to boot, so presumably he is himself a dogsbody. But the hon. member goes on to give an account of what he calls *homo sapiens ambitionicus*. As there is no such expression in Latin, I take it that a dogsbody may be entitled to use dog Latin. What he perhaps means, is *ambitious*. That word is almost never used in the finer sense of ambition, namely, eagerness for praise, power, glory, etc. but is used to describe the low character of a person who obsequiously and often illegally courts public favour. Those who canvas for praise, etc. are described by the word *ambitio*. Then follows a description of *Chamehas*, that is flatterers and this confirms that Shri Khushwant Singh is attacking those

who obsequiously and illegally seek public favours. He, however, generalises and tars all members with the same brush.

As I do not sit in the House after 12 noon, I have not been privileged to see the behaviour of *chamchas*, if any and equally I have not seen the hon. member in operation. But it is certainly wrong to label dogmatically every member of a party as dogsbody and describe his behaviour as canine fawning for favour.

A dog is a dog, whether he be shaggy or smooth because as Macbeth said, they are all 'clept by the name dog'. Therefore, for one dogsbody to call another dogs body names savours of a mild case of Dogberryism. Indeed there are many doggerels and lampoons written on members of Parliament. One such is very famous but I will not recite it here. Such writings are not worth serious notice and I have, therefore, decided to drop this matter with these remarks".

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RAJYA SABHA (1984)

Point of privilege

Casting reflections on a member by a newspaper

Facts of the case and reference to the Committee of Privileges

On 10th May, 1984, Shri Khushwant Singh, a member, gave notice of a question of privilege regarding an article captioned "The President's Visit" published in the *Sunday Observer*, a weekly of Bombay dated 29th April, 1984, allegedly casting reflections on him.

2. The impugned article written by one Mukesh Vatsyayana, contained *inter alia* two references to Shri Khushwant Singh. At one place the writer describing the sculptures of female form said "I wish Sardar Khushwant Singh was here. He is the only right person to talk about these beautiful women". In the next paragraph also Shri Khushwant Singh's name was mentioned in more or less the same context.

On 26th July, 1984, the Chairman (Shri M. Hidayatullah) referred the matter to the Committee of Privileges for their views.

Findings and recommendations of the Committee

3. The Committee of Privileges, in their Twenty-Sixth Report, presented to the House on 18th January, 1985, reported *inter alia* as follows:—

(i) "Having read the references, the Committee has come to the conclusion that the references, and the innuendos do not concern the character or conduct of Shri Khushwant Singh as a member of Parliament, and as such do not amount to breach of privilege."

(ii) "However, the article itself, in the opinion of the Committee, is scurrilous and irresponsible. It is in very bad taste and a taint on a journalistic writing. The Committee has noted that in an issue of the magazine dated May 13—19, 1984, the Editor had published the following apology:—

"The April 29, 1984 issue of the *Sunday Observer* had carried an article by Mukesh Vatsyayana, titled "The President's Visit". Since the article has been taken in some quarters to be a factual report, we wish to make it clear that it was a humour article, with complete absence of malice. It was not intended to cause offence either to the President of India or to the Sikh community. If it has, we apologise."

(iii) "Notwithstanding the above, such humour is, in the opinion of the Committee not humour but a perversion of it. The writer has denigrated and demeaned the person of the President. Such an act and the article deserve to be strongly condemned by all. The Committee has no doubt that, as stated by the Leader of the House (Shri Pranab Mukherjee) in the Rajya Sabha on May 9, 1984, when this matter was raised, Government will take suitable action against the writer etc. of such an article within the framework of the law."

Action taken by the House

4. No further action was taken by the House in the matter.

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RAJYA SABHA (1986)

Point of Privilege

Alleged attempt to defame some members by mentioning their names in a charge-sheet filed in Court by police

Facts of the case and ruling by the Chairman

On 18th March, 1986 the Chairman (Shri R. Venkataraman) observed as follows:—

"Just before the current session commenced, I had received privileges notices given by Shri P. Upendra, Shri M.S. Gurupadaswamy, Shri Pyarelal Khandelwal and Shri S.P. Malaviya pointing out that their names were mentioned in the charge sheet in the Ram Swaroop espionage case which had been given wide publicity thereby tarnishing their public image and deterring them from discharging their duties as Members of Parliament. Referring to certain excerpts from the chargesheet, Shri Khandelwal and Shri Malaviya stated that their conduct as members was sought to be questioned by implying in the charge-sheet that they have been putting questions in Parliament at the behest of certain foreign powers and had thus succumbed to extraneous influences in the discharge of their parliamentary duties. Shri Upendra and Shri Gurupadaswamy contended that there was 'a clear motive to defame and bring down their reputation' and this had 'adversely affected their rights and privileges.' Prof. C. Lakshmanan and Shri B. Satyanarayana Reddy also supported the contention of these members in their separate notices.

I have given most anxious consideration to the matter. It is well settled that in order to constitute a breach of privilege any libel or charge against a member of Parliament must concern his character or conduct in his capacity as a member of the House and must be 'based on matters arising in the actual transaction of the business of the House.' Similarly, vague charges against members without imputing any *mala fides* are not treated by the House as a contempt or breach of privilege. In this context, I feel that the mere mention of names of members in the charge-sheet in the Ram Swaroop Espionage case explaining the *modus operandi* adopted by the accused Ram swaroop for establishing contacts for furtherance of his dubious pursuits *per se* does not involve any *mala fides* on the part of the members concerned.

Moreover, these members have neither been implicated as co-accused persons nor even cited as witnesses.

The Prime Minister himself is reported to have stated on this issue as follows:—

'One point to bear in mind regarding...(I am omitting reference to members of the other House)

all those whose names have been mentioned in the case—is that none of these people have been charged with anything. There is no charge as such.'

The Home Minister, in a communication addressed to me has confirmed that in the relevant case the only accused persons are Shri Ram Swaroop Sabharwal and Shri Javed Siddiqui and no charges have been laid against any other person.

Since it is apparent that no charges have been made against the members of this House, no question of breach of privilege arises and I withhold my consent for raising the matter as an issue of breach of privilege either of the House or of its members.

I wish, however, to add that though I have withheld my consent to the raising of the issue either as a privilege or otherwise, I am not oblivious to the feelings of the concerned members in the matter. As public men and political leaders, they are quite naturally exercised and concerned over the newspaper reports about them. I, therefore, afforded them an opportunity to make personal explanations in the House which is the highest forum available to its members. The members concerned have clarified their positions before the Parliament and the country. I feel that the matter should be allowed to rest with these remarks."

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RAJYA SABHA

(1986)

Point of Privilege

Casting of aspersions on members by a person in a press statement

Facts of the case and ruling by the Chairman

On 5th August, 1986, the Chairman (Shri R. Venkataraman) observed as follows:—

"Dr Bapu Kaldate by a notice of breach of privilege has invited my attention to certain observations of Acharya Rajneesh reported in the *Nav Bharat Times* of August 3, 1986. Acharya Rajneesh is reported to have told a reporter of the *Nav Bharat Times* that 'Members of Indian Parliament are mentally under developed. If investigations are made, they would be found to have a mental age of 14 only'...We generally treat such remarks beneath our notice and I propose to do so in this case also. It is inconsistent with our dignity to attach any importance to the vituperative outbursts or irresponsible statements of a frustrated person.

It would be better if the godmen leave the good men alone...I expect news papers not to give publicity to irresponsible statements against Members of Parliament. By doing so, they are not doing any service to the great institution of Parliament. *Nav Bharat Times* should have exercised judgement before giving publicity to Acharya Rajneesh's ludicrous statement about Members of Parliament. With these observations I close the chapter."

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RAJYA SABHA

(1990)

Point of Privilege

Alleged casting of reflections on the Chairman by an Ex-M.P.

Facts of the case and action taken by the House

On 24th May, 1990, Shri K.K. Tewary, an Ex-M.P., issued a Press statement in which he allegedly cast reflections on the Chairman.

2. The impugned Press statement as reported in several newspapers of 24th May, 1990, reads as follows:—

"Dr. Shankar Dayal Sharma's utterly outrageous and totally impermissible outbursts against the members of the officially recognised opposition in the Parliament are unprecedented and grossly violative of the rules, norms and dignity of the House and also the high standards of conduct set by his very distinguished predecessors.

Dr. Sharma's hysterical rantings have not served the cause of democracy as his simulated dramatics were clearly aimed at gagging the only opposition party and its members who were discharging their constitutional and patriotic obligation to expose the rulers of the day who are perfecting the final blue print of India's second partition in Kashmir and unabashedly patronising murderers and bandits as their Chief Ministers and Ministers to subvert the very foundation of our democratic polity.

Dr. Sharma's concern for the dignity of the House in retrospect seems to be less than genuine if one recalls his meek and solicitous responses when the present rulers used to hold the House to ransom for weeks together on most flimsy grounds when they were in the opposition.

The country is passing through most perilous times

and the likes of Dr. Sharma who are holding constitutional positions should not allow their offices to be manipulated for political propaganda in favour of the present rulers who have brought the country to the brink of complete dismemberment.

The fact that Dr. Sharma chose to launch his most vitriolic and undignified denunciation against the Congress(I) members and allowed his outbursts to stay on records renders him unfit to preside over the House."

3. On the same day, several members raised the matter in the House. After some discussion, the Minister of Information and Broadcasting and Parliamentary Affairs (Shri P. Upendra) moved the following resolution:—

"This House resolves that Shri K.K. Tewary be issued notice regarding his statement published in the newspapers today which has brought the office of the Chairman or Rajya Sabha to indignity and constitutes contempt of this House. If it is confirmed that Shri K.K. Tewary has issued that statement, the House further resolves that Shri Tewary be summoned to the Bar of this House before the end of the current session and be reprimanded."

Shri P. Shiv Shanker, a member, seconded the resolution. The resolution was unanimously adopted by the House.

4. On 30th May, 1990, the Deputy Chairman informed the House as follows:—

"....As Hon'ble members are aware, the House had unanimously adopted a Resolution on May 24, 1990, regarding contempt of the House by Shri K.K. Tewary by a statement purporting to be issued by him and published in the newspapers on that day. By the said Resolution, the House had desired that 'if it is confirmed that Shri K.K. Tewary has issued that statement, Shri Tewary be summoned to the Bar of the House before the end of the current Session and be reprimanded....'

In pursuance of the Resolution, Secretary-General had sent a letter to Shri Tewary on May 24, 1990, asking him to confirm whether he had issued the said statement.

In his letter dated May 27, 1990, Shri Tewary did not in so many words confirm whether he issued the said statement. Therefore, another letter was sent to him yesterday, May 29, 1990,

asking him to state whether he had issued the said statement. He was given time upto 10.30 A.M. this morning to sent his reply. At about 11.45 A.M., we have received a letter from Shri Tewary. Therein, he has, *inter alia* stated that he has publicly withdrawn the statement. He has, thus, admitted having made the statement Shri Tewary will, therefore, be called to receive the reprimand tomorrow at 11.00 A.M."

5. On 31st May, 1990, at about 11.05 hours, the Deputy Chairman informed the House as follows:—

"Hon'ble members, we had fixed 11 A.M. today to administer reprimand to Shri K.K. Tewary, for contempt of the House. The Secretary-General, Rajya Sabha, had received a letter this morning from Shri K.K. Tewary, stating and I quote:

To
The Secretary-General,
Rajya Sabha,
Parliament House,
New Delhi.

Sir,

Acknowledging the receipt of the summons to receive reprimand of the Rajya Sabha dated 30.5.1990, I have to submit as under:—

That in so far as the summons is founded on a mere confirmation of the press statement and without any consideration of my defence contained in my reply dated 30th May 1990, I am entitled to the writ petition of the Supreme Court against the said summons and or any other or further action in pursuance thereof.

That I propose to avail of this constitutional remedy under article 32 of the Constitution of India, in terms of order dated 30th May 1990 of Special three-Judge Bench of the Supreme Court, passed in my writ petition No. 656 of 1990. By this order, the Supreme Court while dismissing the writ petition in view of your letter dated 24th May 1990 asking for my reply with comments, if any, by 28.5.1990, was pleased to grant me the liberty to move the Supreme Court again in case there was no consideration of the comments or no opportunity for defence.

That in view of the foregoing, I have to request that the time for receiving the sentence of reprimand may kindly be extended by the august House....

'....by twenty-four hours so that I may exhaust the judicial remedy on 31.5.1990 and present myself before the Bar of the House only on 1.6.1990 for the

needful in terms of such orders as may be passed by the Hon'ble Supreme Court on the fresh writ petition filed by me.

Yours sincerely,
K.K. Tewary.'

I would like to echo the feelings of the House that Shri K.K. Tewary having been a member of the Parliament for quite sometime and having been a Minister should not have approached the Court in a matter of contempt of this House which was too serious. This House fervently hopes that the Supreme Court would restrain itself from interfering in this matter, respecting the authority of this House and its Chair.

Since the contemner has sought for time, lest we should be understood as being vindictive, the House may grant him the time till 4.00 P.M. today to appear and receive the reprimand."

On the same day, at about 11.35 hours, the Deputy Chairman moved the following motion:—

"That Mr. K.K. Tewary be given time till 4. O'clock today."

The motion was adopted.

Again at about 16.40 hours, the Deputy Chairman informed the House as follows:—

...."I have been informed by the Secretary-General who got confirmation from the Registrar of the Supreme Court that Shri K.K. Tewary's petition has been disallowed, dismissed....It was just an information to the House. Officially it might come tomorrow, or something.

But, if I go through the letter which Mr. K.K. Tewary has written, he said that he will present himself before the Bar of the House only on the 1st of June, 1990 for the needful in terms of such order as may be passed by the hon. Supreme Court on the writ petition filed by him. He himself has offered to come tomorrow, he has committed himself to it. Now, we have to decide the time, whether it is eleven O'clock or twelve O'clock. That is all... The gentleman himself has committed in writing."

It was decided that Shri K.K. Tewary might be called at 11 O'clock on 1st June, 1990.

6. On 1st June, 1990, at about 11.00 hours, the Deputy Chairman observed as follows:—

"The House will now administer reprimand for

the act of contempt committed by Shri K.K. Tewary.

I urge upon all the members to observe silence while the contemner is being reprimanded so that the authority of the House and the significance of the occasion are realized."

Immediately thereafter, the Deputy Chairman asked the Deputy Director of Security if Shri Tewary was in attendance. The Deputy Director of Security replied in affirmative. The Deputy Chairman then directed the Deputy Director of Security to produce him at the Bar of the House. Shri Tewary was then brought to the Bar of the House. The Deputy Chairman then seated in her Chair) reprimanded Shri Tewary as follows:—

"K. K. Tewary, this House has deplored the grave act of misdemeanour for which you bear responsibility in committing contempt of this House. The House is pained that a citizen of India should ever have been so at fault and apparently be unrepentant thereafter.

This House, therefore, reprimands you and a more severe penalty is not administered only in the hope that through introspection you would realize the seriousness of your misdemeanour towards this House and to the sacred system of parliamentary democracy.

I now direct you to withdraw."

Shri Tewary then withdrew.

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RAJYA SABHA
(1991)

Point of privilege

Alleged casting of reflections on a member by a newspaper

Facts of the case and reference to the Committee of Privileges

On the 10th January, 1991, Shri A. G. Kulkarni, a member, gave notice of a question of privilege against the Reliance Industries Limited and the *Business and Political Observer*, an English daily, for allegedly casting reflections on him in a press release issued by the Reliance Industries Limited and published in the newspaper *Business and Political Observer* in its issue dated the 10th January, 1991. The relevant portions of the press release, to which objection was taken by the member, read as follows:—

"All the allegations....are 'malafide and already

been refuted in the Press on January 2, 1990. Mr. Kulkarni's longstanding dubious connections with our business rivals, Bombay Dyeing are well known. His brother is formally associated with that Company's Board of Directors. Therefore, any malicious and irresponsible comment he makes about Reliance has to be viewed in this context and his personally motivated relationship with Bombay Dyeing. This is not the first time that he has attacked Reliance in Parliament at the bidding of his hidden masters.'

.. ..

"That he chooses to launch such attacks in the House where we are personally unable to defend ourselves is a measure of the gross abuse of the privileges accorded to him as an M. P.'."

2. The impugned press release was issued by the Reliance Industries Limited after Shri A. G. Kulkarni made a Special Mention in the Rajya Sabha on 7 January, 1991 regarding financial irregularities and mismanagement in some Nationalised Banks including UCO Bank and also stated that the Reliance Industries had been advanced a loan of Rs. 60 crores. Shri Kulkarni contended that the said press release instead of clarifying its position and denying the allegations, attributed malafides and improper motives to him which clearly impinged upon his right to speech in Parliament and thus constituted a breach of privilege.

3. On the 26th February, 1991, the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendation of the Committee of Privileges

4. The Committee of Privileges, after examining in person Shri B. N. Uniyal, Editor-in-Chief, Shri Baljit Kapoor, Printer and Publisher of the *Business and Political Observer* and Shri Tony Jesudasan, Group Adviser, Corporate Communications, Reliance Industries Limited, and considering all the relevant documents, in their Twenty-eighth Report presented to the House on 26 July, 1991 reported *inter-alia* as follows:—

- (i) "The Chairman-cum-Managing Director of RIL in his letter dated March 26, 1991, expressed his inability to appear before the Committee due to indifferent health. He *inter-alia* stated that he held both the august Houses, its members, as well as the members

of the Committee of Privileges in the highest regard. On his part there had never been any intention to show any disrespect to Parliament or its working. He viewed the functioning of Parliament with the highest respect and it had never been, nor would it be, ever his intention to malign the House or its members in any way."

- (ii) "Shri B. N. Uniyal, Editor-in-Chief, and Shri Baljit Kapoor, Printer and Publisher of the 'Business and Political Observer' appeared before the Committee. Shri Uniyal on his own and on behalf of Shri Kapoor stated that the report was published in the paper in good faith on the basis of a press release issued by the RIL. He felt that possibly it could have been treated with more caution and submitted that it was inadvertent and was not intended to malign the House or Shri Kulkarni. He, however, tendered an unconditional apology and expressed regret for the same."

- (iii) "The Group Adviser, (Shri Tony Jesudasan) Corporate Communications, RIL made the following submission before the Committee:—

"On January 7, during a special mention on the crippling sickness in nationalized banks, Shri A. G. Kulkarni made an unsubstantiated allegation stating that the company, of which I am a spokesperson, was a threat to democracy. The said statement was widely quoted in the Indian press. Shri Kulkarni's charge, in effect, alleged that my company was not only unpatriotic but that its actions were undemocratic. Consequently, provoked by the gravity of Shri Kulkarni's charge. I reacted in an emotional manner and issued a press statement—copy of which has been, I think, circulated—alleging that Shri Kulkarni's consistent attacks since 1985 in Parliament against Reliance Industries were the result of his association with our business rivals, Bombay Dyeing. While I have been guilty of overreaction, it was never my intention to malign the House or Shri Kulkarni.

As the tradition of Parliamentary privileges accords Members the right to condemn anybody in the House without giving that person the right to defend himself in the House at the time that an allegation is being

made, I acknowledge that my remarks on Shri Kulkarni may have violated the sanctity of Parliamentary discussions. If so, for this misdemeanour I tender my sincere and unconditional apology to the House."

- ((iv) "In view of the regrets expressed and unconditional apology tendered by all concerned, the Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

5. No further action was taken by the House in the matter.

519

RAJYA SABHA (1992)

Point of privilege

Alleged casting of aspersions on a member and the House by a newspaper.

Facts of the case and reference to the Committee of Privileges

On 11 August, 1992, Shri Ghufan Azam, a member, gave a notice of question of privilege against the Editor and the Reporter of *Dainik Jagran*, a Hindi daily published from Kanpur for allegedly casting aspersions on the member and the House in a news report published in its issue dated 28 May, 1992 under the caption "Sansad Mein Prashno Ke Zariye Swarth Poorti Karne Wala Giroh Sakriya".

2. Shri Azam *inter-alia* contended in his notice that the said news item mentioned that a gang was involved in making Members of Parliament ask questions for their personal benefit, which implied wilful involvement of Members and thus affected their image not only in the eyes of other Members but also in the eyes of the people. Shri Azam also charged the paper with indulging in malicious propaganda against him personally through the said news item.

3. On 12 August, 1992, the Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendations of the Committee

4. The Committee of Privileges after considering the written explanation of and examining in person Shri Narendra Mohan, the Editor and Dr. Ramesh

Verma. The Reporter, *Dainik Jagran*, in their Thirty-fifth Report presented to the House on 30 December, 1993, reported *inter alia* as follows:—

- (i) “Shri Narendra Mohan, the Editor, *Dainik Jagran*, in his comments dated August 22, 1992 *inter-alia* stated that the impugned news item was published at the instance of his local reporter (Dr. Ramesh Verma) on the basis of information supplied by the local police intelligence and two of the local M.L.As., without seeking any permission from any of his superior and without the knowledge of the Editor, Printer or Publisher. His explanation was sought and he was reprimanded for the lapse. He was no longer in the employment of the said newspaper, having already resigned. The Editor averred that the news item was published without any ill-intention or motive to defame or to cast any reflection on Shri Ghufuran Azam or any Member of Parliament and offered an unconditional apology and prayed for condonation of the lapse.”
- (ii) “Dr. Ramesh Verma, the Reporter, *Dainik Jagran* submitted that he had filed the impugned news item on the basis of a complaint made by the Kanpur Hotel Restaurant Association and the information provided by two local M.L.As. Refuting the version of the Editor, he stated that the same was published with the knowledge and

consent of local Editor, Shri B.K. Sharma. He, however, admitted that he did not check the veracity of the contents of the news item before publishing the same and expressed his regrets and tendered unconditional apology for his writing in derogatory words about Members of Parliament.”

- (iii) “Shri Narendra Mohan, the Editor of the newspaper, reiterated his earlier version and submitted that Dr. Ramesh Verma who was overall in-charge of local news section published the impugned news without consulting the local Editor, Shri B.K. Sharma. He also expressed his sincere regrets and tendered unqualified apology in the matter.”
- (iv) “The Committee feels that the impugned news item was derogatory and grossly unfair to Members of Parliament. It was, apparently, published without the necessary verification and attention to facts expected from any Newspaper of standing. However, having regard to the regrets expressed and apologies offered by the Editor as well as the concerned reporter of *Dainik Jagran*, the Committee recommends that the matter may be treated as closed.”

Action taken by the House

5. No further action was taken by the House in the matter.

REFLECTIONS ON HOUSE AND/OR ITS MEMBERS BY MEMBERS OF OTHER HOUSE

520
PARLIAMENT OF INDIA
(1954)

Point of privilege

Alleged casting of reflections on the Rajya Sabha by a member of the Lok Sabha

Facts of the case and reference to the Committee of Privileges

On the 11th May, 1954, Shri Rajagopal Naidu, a member, raised a question of privilege in the Rajya Sabha alleging that Shri N.C. Chatterjee, a member of Lok Sabha, in his concluding remarks at the 31st Session of the All-India Hindu Mahasabha held at Hyderabad on 10 May, 1954, speaking about the Special Marriage Bill passed by the Rajya Sabha, was reported to have characterised the Parliament as a "wonderful Parliament" and referred to Rajya Sabha in the following terms:

"The Upper House which was supposed to be a body of elders seemed to be behaving irresponsibly like a pack of urchins."

He added that the remarks were a reflection on the proceedings of the House and a violation of the rights and privileges of the House. They also amounted to an indignity offered to the House. Such acts on the part of responsible persons tended to obstruct the House in the performance of its functions by diminishing the respect due to it.

He, therefore, requested that steps might be taken to investigate into the matter.

2. The Chairman thereupon observed as follows:

"I see that he has characterised 'Parliament' as a 'wonderful one', which includes the House of the People. First of all, we have to ascertain if the reports themselves are correct; and then we have to find out what steps we have to take, if the reports are correct."

3. On 12 May, 1954, Shri N.C. Chatterjee raised a question of privilege in Lok Sabha and stated that late on the previous night he was served with the following notice No. CS 21(2)54-L dated the 11th May, 1954, issued by the Secretary of Rajya Sabha:

"I am directed to refer to the speech delivered by you at the concluding session of the All-India

Hindu Mahasabha held at Hyderabad on the 10th May, 1954, as reported in the *Statesman* and certain other English newspapers of Delhi on the 11th May, 1954, and to state that according to the said report you appear to have said in the course of that speech, while referring to the Special Marriage Bill recently passed by the Council of States, that it was a 'wonderful Parliament' which was considering the Bill and that the Upper House 'which is supposed to be a body of elders seems to be behaving irresponsibly like a pack of urchins'. The words quoted have been made the subject matter of a question of privilege raised by a member of the Council of States at the sitting of the Council today on the ground that they constitute a reflection on the proceedings of the House and a violation of the rights and privileges of the House. It has been further contended that these words amount to an indignity offered to the Council of States. Before the Chairman takes further action in the matter, I am directed to request that you will kindly intimate to this Secretariat whether the statements attributed to you have been correctly reported in the newspapers, particularly the *Statesman*.

2. I am further to request that an immediate reply to this communication may kindly be sent."

He stated that it was an extraordinary procedure that a member of Lok Sabha had been served with a notice like that by the Secretary of Rajya Sabha. It suggested that there had been a breach of dignity and violation of the rights and privileges of the Upper House and lowering of the prestige of that House. If any judgement or adjudication had to be made or given, it had to be made by the Lok Sabha or by the Speaker.

Quoting *May's Parliamentary Practice*, he stated that if there was any offending member, or if he had committed any offence, it was the Speaker and Speaker alone, and Lok Sabha and Lok Sabha alone which could make an enquiry and pass judgment as he was amenable to the jurisdiction of that House only.

Concluding he stated that it was usurpation or infraction of their rights and privileges by the other House or by the Secretary of that House, and some

procedure might be laid down to guard the privileges of the members.

4. The Prime Minister (Shri Jawaharlal Nehru) stated that the incident referred to had nothing to do with Lok Sabha. It had occurred outside, and it was question whether a member of Lok Sabha behaving or misbehaving outside should come and seek the shelter of Lok Sabha for his behaviour, or misbehaviour outside which had nothing to do with the House. If a member did something outside the House, it was in his capacity as a citizen, not as a member of the House. The Hindu Mahasabha was not a part of the House.

The present question was whether an inquiry about the veracity of a report was justifiable or not. It was very easy to refer to privileges of this House and that House, but there were somethings which occurred outside these Houses and an inquiry about them was normally made. When the House did not know what that action was, it seemed rather premature and going beyond the facts of the case.

5. The Speaker (Shri G.V. Mavalankar) thereupon observed as follows:

"I am unable to carry conviction. I am not deciding anything on the merits. The only question is what is the nature of this inquiry that has been made, and whether the procedure followed is the correct one, or some other procedure has to be followed. Whatever is decided will equally apply when some members of the other House makes speeches outside even in his private capacity with reference to the conduct of the proceedings in this House. If this House decides that there is no jurisdiction the course will be in that direction. But we must try to find out and see what should be the correct procedure. That is the only point....I am not taking on myself the burden of deciding this thing. It is an important issue, to my mind, which cannot be disposed of immediately."

6. On the 13th May, 1954, the Speaker informed the House that he had received the following letter on the previous evening from the Chairman of the Rajya Sabha:

"At the sitting of the Council of States yesterday (11th May, 1954) a Member sought my permission to raise a question of privilege in respect of certain statements reported to have been made by Shri N.C. Chatterjee, relating to the passing by the Council of

States of the Special Marriage Bill, in the course of a speech made by him at Hyderabad on 10 May, 1954, as President of the All-India Hindu Mahasabha, at the concluding session of the Mahasabha and published in the local newspapers. According to the newspaper reports, Shri Chatterjee is alleged to have said that it was a 'wonderful Parliament' which was considering the Bill, and that the Upper House 'which is supposed to be a body of elders seems to be behaving irresponsibly like a pack of urchins'. Under my directions, the Secretary of the Council has written to Shri Chatterjee enquiring whether the statements attributed to him have been correctly reported in the newspapers.

As Shri N.C. Chatterjee happens to be a member of the House of the People, I am writing this to you."

The Speaker stated that in the light of this letter which he had received from the Chairman of the Rajya Sabha, he should have personally thought, if the House agreed, that the matter might be thrashed out in the Privileges Committee of the House where there would be ample time to discuss those things. They might consult the members of Rajya Sabha formally or informally and it would be better if the Privileges Committees of both the Houses came to a common agreed decision about the procedure. That was his suggestion, but it was for the House to decide.

7. The Prime Minister stated that it was not the first time that such a question had arisen. About a year and a half ago, or a little more there was a case of a member of the other House; who had made a speech and the Privileges Committee demanded an explanation from him. At present, nobody had been summoned by anybody only a courteous letter had been sent. When the Chairman of the other House had asked information about the correctness of the speech, was that letter to be kept pending so that the Privileges Committee might consider about the procedure? That was a great discourtesy to the Chairman of the other House.

8. The Speaker thereupon observed as follows:

"I have seen the proceedings, which he (Leader of the House) referred to, on the question of a member of that House —Shri Sundarayya—being called upon to give an explanation. On a preliminary examination I

can say that even assuming everything else to be on all fours, that was a case of voluntary submission to the jurisdiction of this House. It was perfectly competent for any member of that House on being summoned to come and say just as what Mr. Chatterjee has said...."

"The ultimate object is of course to ascertain the truth of it. The whole tenor appears to me to be that of a writ. I may be wrong on that point and people may differ in their interpretation. That is why I think the question is important, so far as the procedure is concerned and if the House agrees I will refer it to the Privileges Committee here and now. If the matter were one of simply asking for the correctness of the statement it stands entirely different. To my mind, it is not in the nature of a request. What the Chairman has written is unexceptionable. I should suggest, even without going into what the hon. Leader of the House has said as to whether the question should stand over, and without prejudice to what the Privileges Committee may ultimately decide over the question of procedure. I should suggest to Shri Chatterjee that he may make a statement, give it to me and I can pass it over to the Chairman of the Council of States. That will satisfy the Chairman's desire to have facts and that will also not prejudice the decision on the procedural question."

"With agreement on the question that the matter be referred for consideration to the Privileges Committee of this House as also the Privileges Committee of the other House, and that they may jointly consult and come to agreed conclusions. I do not think we need raise any kind of controversy at this stage which I am sure, will not be to the dignity of either House."

9. On the 14th May, 1954 Shri P. Sundarayya a member, clarifying his position in the Rajya Sabha stated that when he submitted his explanation, he thought in due regard to both Houses of Parliament, that it was his duty to do so and especially as a member of Rajya Sabha when he was charged with those things. That should not be construed that he had let down the dignity or the right of Rajya Sabha or of its members or especially the authority and dignity of the Chair.

10. Shri B.C. Ghose, another member, quoting

May's Parliamentary Practice, stated that if any complaint was made against any individual member or against any of the officers of the other House, the usual mode of proceeding was to examine into the fact and then lay a statement of that evidence before the House of which the person complained of was member or officer. What they were doing was merely enquire into the facts of the case and then if the facts were proved to be true and if they wanted any action to be taken against the member concerned the correct procedure would be to forward their recommendations to the Speaker of the other House and it would have been for him to take any action or not to take any action against the member.

He therefore, felt that the procedure which they had followed in that matter, namely, that of asking for information from the member concerned was quite correct. He therefore, requested that the matter might be referred to the Committee of Privileges for investigation and report on the following three points:

- (i) general matter of procedure.
- (ii) particular case referred to by Shri Rajagopal Naidu.
- (iii) the procedure followed by them in that particular case.

11. Pandit H.N. Kunzru, another member, stated that it was obvious from the letter that it was only a request for information. Shri N.C. Chatterjee had not been asked to appear before Rajya Sabha or any of its Committees. He did not, therefore, understand how the Speaker came to regard the letter sent to Shri Chatterjee as a writ rather than as a request for information. It was very painful that on matters on which the British Parliamentary practice was settled, there should be no unnecessary misunderstandings between the two Houses of Parliament. He, therefore, suggested that the Chairman and the Speaker might settle that matter between themselves in order to avoid the occurrence of such painful and undignified incidents in future.

12. The Chairman thereupon observed as follows:

"Now, so far as the procedure adopted by us in this matter is concerned I am satisfied that it is in conformity with the practice of the British Parliament and also the previous practice of our own Parliament. But since some misunderstanding has arisen—I have seen in the papers; I have had no official information—the two Committees of Privileges are requested to

meet and chalk out of a procedure to be adopted in the future so far as such incidents are concerned. I have not received any other communication or any official information on that matter....That matter will rest there..... We will await developments."

13. On the 15th May, 1954, the Chairman informed the Rajya Sabha that he had received a letter from the Speaker enclosing a statement by Shri Chatterjee. He asked the Secretary to read that statement, which the Secretary read as follows:

"I delivered a speech for about an hour on the concluding day of the All-India Hindu Mahasabha Session at Hyderabad on the 9th May, 1954. My speech lasted from 10-30 p.m. to about 11-30 p.m. A substantial portion of my speech was devoted to the consideration of the Special Marriage Bill and its effect on Hindu social system. The Press reports contain certain bare summaries of what I said.

In the course of my speech I criticised the introduction of a revolutionary change in the said Bill without any mandate from the nation. I am as zealous as anybody else of the dignity of the Parliament of which I am a member.

I could not possibly have any intention to defame the Parliament or to lower the dignity of either House. But I wanted to emphasise the desirability and necessity of taking the mandate of the Electorate for a radical change, namely, divorce by consent, in such legislative measures. I was criticising the social reformers who sponsored such radical change in the Bill.

The sentence attributed to me has been taken out of its context and published with material omission. I commented that the Council of States was the Upper House, and therefore, as the House of Elder Statesmen they were expected to act as a revising Chamber.

What I said that some of the over-zealous radicals of the Upper House, which is supposed to be a body of Elders, seemed to be behaving irresponsibly like a pack of school boys or pack of urchins.

I conveyed that some members seemed to forget the revising role of the Upper House. My reference was only to such members who were responsible for introducing such radical change

in the Bill as 'Divorce by mutual consent', which was also opposed by the Government and by a substantial section of that House.

From what I have said it will be clear that it is not correct to allege that I said anything contemptuous of the Council of States or offered any indignity to that House. I criticised not the Council as such but only some members of the Council of States."

14. Shri Abdul Razak, another member, suggested that the covering note of the Speaker might also be read. The Chairman thereupon read the note as follows:

"I send to you herewith the following:

- (i) a copy of letter dated the 13th May, 1954 from Shri N.C. Chatterjee, member, House of the People.
- (ii) a copy of the statement received by me from Shri N.C. Chatterjee covering the point on which you wished to have information from him as mentioned in your letter to me dated the 11th instant.

Both these were received by me at 10-45 p.m. last night and I am sending them to you at the earliest possible opportunity.

I also send herewith a copy of the proceedings of the House of the People yesterday (13th instant) in connection with Shri Chatterjee's motion. This will give you a full picture of what happened in the House of the People.

I might here invite your special attention to my suggestion made in the House that the question of procedure should be settled by the Privileges Committees of both Houses by agreement as far as possible. I may state also by way of extra caution that the copy of the proceedings that I am sending to you is an uncorrected copy and it is just possible that some verbal corrections here and there may be made by members to whom the proceedings are sent for correction."

15. Shri K.S. Hegde, another member, stated that two questions arose: One was, between the letter and the report published in the paper, which should be treated as the correct one. The second was, even if the letter as it stood was found to be true, whether it did not constitute contempt of the House. He, therefore, suggested that both those questions might be referred to the Committee of

Privileges for further investigation.

16. The Chairman, thereupon, observed as follows:

"In the meantime, as I have just read to you, the Speaker has suggested that the Privileges Committees, of both the Houses should evolve an agreed common procedure for such matters. I want the House to be co-operative and friendly to this suggestion. I, therefore, request the Privileges Committee of the Council to evolve, in consultation with the Privileges Committee of the Lok Sabha an agreed procedure by mutual consent to be followed in matters when any complaint regarding breach of privilege is made against a Member of either House of Parliament. I am anxious that this Committee should come to a decision by agreement and consent at a very early date."

Findings and recommendations of the Committees

17. The Committee of Privileges of Lok Sabha and Rajya Sabha, in their Joint Report, presented to both the Houses on the 23rd August, 1954, came *inter alia* to the following unanimous conclusions:

(i) "The Committees have considered carefully the procedure followed in the Parliament of the United Kingdom in such cases. The Committees observe that the British procedure falls in two parts—one dealing with initiation of case and conducting of enquiries to be completed by the House in which a complaint is made; and the other relating to taking proper measures for reaching findings and conclusions and deciding as to the nature of punishment (if any) to be dealt with by the House to which the offending member belongs. The Committees note that this procedure is based on some ancient cases and in modern times there has been no case in the U.K. in which this procedure has actually been followed."

(ii) "Article 105(3) of our Constitution provides as follows:

In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.

The Committees consider that this Article equates only the privileges of our Houses of Parliament with those obtaining in the House of Commons in the United Kingdom and does not make it obligatory on our Parliament to follow the same procedure as obtains in the United Kingdom. The Committees feel that we are completely free to prescribe our own procedure and by consent from conventions which would be suitable to our requirements or circumstances."

(iii) "Having fully considered all these matters, the Committees are of the opinion that the following procedure should be followed in a case where a member or officer or servant of one House is alleged to have committed a breach of privilege or contempt of the other House:—

(a) When a question of breach of privilege is raised in any House in which a member, officer or servant of the other House is involved, the Presiding Officer shall refer the case to the Presiding Officer of the other House, unless on hearing the member who raises the question or perusing any document where the complaint is based on a document, he is satisfied that no breach of privilege has been committed or the matter is too trivial to be taken notice of, in which case he may disallow the motion for breach of privilege.

(b) Upon the case being so referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a case of breach of privilege of that House or of a member thereof.

(c) The Presiding Officer shall thereafter communicated to the Presiding Officer of the House where the question of privilege was originally raised a report about the enquiry, if any, and the action taken on the reference."

(iv) "It is the intention of the Committees that if the offending member, officer or servant tenders an apology to the Presiding Officer of the House in which the question of privilege is raised or the Presiding Officer of the other House to which the reference is made, no further action in the matter may be taken after such apology is tendered."

- (v) "The Committees suggest that if the recommendations contained in paragraphs (iii) and (iv) above are accepted, then rules on the subject in identical terms may be framed and incorporated in the Rules of Procedure of each House."

Action taken by the Houses on the Report

18. On the 2nd December, 1954, the Chairman of the Joint Sitting of the Committees of Privileges (Dr. Kailas Nath Katju) moved in the Lok Sabha the following motion:—

"This House approves the recommendations contained in the Report of the Joint Sitting of the Committees of Privileges of the Lok Sabha and the Council of States which was presented to the House on the 23rd August, 1954."

The motion was put and adopted.

19. On the 6th December, 1954, the Leader of the House (Shri C.C. Biswas) moved the following motion in the Rajya Sabha:—

"That this House approves the recommendations contained in the Report of the Joint Sitting of the Committees of Privileges of the Lok Sabha and the Council of States, which was presented to the House on the 23rd August, 1954."

The motion was put and adopted.

20. On the 8th December, 1954, the Chairman informed the Rajya Sabha that he had received a letter from the Speaker, Lok Sabha, enclosing a statement by Shri N.C. Chatterjee. The statement read thus:

"Since the question of privilege has been raised and the procedure has now been settled may I request you to inform the Chairman that I did not intend any disrespect to the Rajya Sabha or the Members thereof? But if a wrong impression has been conveyed, I am sorry for it."

The Chairman thought that in view of the statement, they might treat the matter as closed.

521

LOK SABHA

(1970)

Point of privilege

Alleged reflections on the conduct of a member of Lok Sabha by a member of Rajya Sabha

For details of the case pl. see summary No. 447 at p. 658 ante.

522

LOK SABHA

(1970)

Point of privilege

Allegations by a member in Rajya Sabha of bribery of members for voting against a Bill in Lok Sabha

For details of the case please see summary No. 78 at p. 147 ante.

523

LOK SABHA

(1971)

Point of privilege

Reference of a question of privilege by the Speaker, Tamil Nadu Legislative Assembly, to the Speaker, Lok Sabha, in respect of certain remarks made by a member in Lok Sabha

Facts of the case and ruling by the Speaker

On the 13th July, 1971, during the discussion on the Calling Attention Notice regarding the Cauvery Waters Dispute, Shri N. Shivappa, a member, made *inter alia* the following remarks in the House:—

"....Why should the Tamil Nadu Government come forward and create all this *halla-gulla*. I do not understand. The agreement is subsisting till 1974. So, why should they make all this *kalata* and *halla-gulla*, till then....?"

2. On the 14th July, 1971, in the Tamil Nadu Legislative Assembly, the Chief Minister of Tamil Nadu referred to the above remarks made by Shri N. Shivappa in Lok Sabha and stated that the words and expressions *halla-gulla* and *kalata*, allegedly used by Shri N. Shivappa, were derogatory to the dignity of the Tamil Nadu Legislative Assembly. He urged the Speaker, Tamil Nadu Legislative Assembly to take appropriate action in the matter.

Thereupon, the Speaker, Tamil Nadu Legislative Assembly, ruled that the impugned remarks made by Shri N. Shivappa in Lok Sabha, affected the dignity of the House and *prima-facia* constituted a breach of privilege of the Tamil Nadu Legislative Assembly. He also observed that he would refer the matter to the Speaker, Lok Sabha, for appropriate action, in accordance with the established procedure and practice in regard to a complaint of breach of privilege by a member of one Legislature against a member of another Legislature.

3. On the 16th July, 1971, Shri S.M. Krishna and other members of Lok Sabha sought to raise a question of privilege in the House against the Tamil Nadu Legislative Assembly and its Speaker for interfering with the proceedings of Lok Sabha on the Calling Attention Notice on Cauvery Waters Dispute on the 13th July, 1971.

4. After some discussion, the Speaker *inter-alia* observed as follows:—

“....I think we should observe restraint in this matter and let us wait for the communication from the Speaker of the Tamil Nadu Assembly...when I receive the communication, I shall place it before the House.”

5. On 12 August, 1971, the Speaker informed the Lok Sabha that in reply to a reference received by him from the Speaker, Tamil Nadu Legislative Assembly, he had written a letter on the 29th July, 1971, informing him as follows:—

“From the Lok Sabha Debates, dated the 13th July, 1971 (copy of relevant extracts enclosed) it may be seen that Shri Shivappa had used the words ‘kalata’ and ‘halla-gulla’ in respect of the Tamil Nadu Government and not the Tamil Nadu Legislative Assembly.

Moreover, a question of privilege would not arise in respect of anything said by a member on the floor of the House.

In the circumstances, I am treating the matter as closed.”

The Speaker, also observed that he was not giving his sought to the question of privilege which was sought to be raised by Shri S.M. Krishna and others against the Tamil Nadu Legislative Assembly and its Speaker.

The matter was, thereafter, closed.

524

LOK SABHA

(1973)

Point of privilege

Alleged reflections on the members of Rajya Sabha in a speech of a member in Lok Sabha as reported by a newspaper.

Facts of the case and action taken by the House

On the 19th April, 1973, the Speaker (Dr. G.S. Dhillon) informed the House that he had received

the following letter dated April 2, 1973, from the Chairman, Rajya Sabha:—

“The speech of Shri Bibhuti Mishra, M.P. in the Lok Sabha on the 30th March, 1973, while moving his resolution for abolition of the Rajya Sabha as reported in the Hindi daily *Hindustan* in its issue of March 31, 1973, under the caption

राज्य सभा राजनीतिक प्रहार का केन्द्र : विपत्ति मित्र

was the subject-matter of some discussion in Rajya Sabha in its sitting held on March 31, 1973. I am forwarding the relevant extracts of the proceedings of the Rajya Sabha which also include the observations which I made on the subject in the House for your consideration and for such action as you may think appropriate. You will no doubt agree with me that both Houses of Parliament and their members should treat the other House with utmost respect and consideration and the best of relations should prevail between the two Houses and the respective members thereof. I shall be glad if you would kindly inform me about the action you take in the matter.”

2. The Speaker added that he had replied to the Chairman, Rajya Sabha, by his letter of April 5, 1973, as follows:—

“.....I have gone through the speech of Shri Bibhuti Mishra as contained in the Lok Sabha cyclostyled Debates of March 30, 1973. I find therefrom that Shri Bibhuti Mishra did not say in his speech what is attributed to him in the aforesaid caption of the news report. I am sending herewith a copy of that day's Debates of Lok Sabha for your perusal.

I fully share your views about the cordial relations between the two Houses of Parliament and their members.

Obviously that newspaper has given a highly misleading caption. We are taking up the matter with the Editor of the newspaper.

I also appreciate the concern as shown in the speeches of the Hon'ble members of your House. Please assure them on behalf of Lok Sabha and also myself that we hold them in utmost respect and high regard.”

3. The Speaker also informed the House that the Editor of the *Hindustan* who was asked to state for

his consideration what he had to say in the matter, in his letter dated April 16, 1973, stated as follows:—

“.....Shri Bibhuti Mishra, M.P., did not say in his speech in the Lok Sabha that

‘राज्य सभा राजनीतिक प्रवृत्ति का केन्द्र है।’

the heading therefore in so far as it stated that it was from a speech of Shri Bibhuti Mishra is also incorrect. The mistake however arose this way: Shri S.M. Banerjee, member, Lok Sabha, who followed Shri Bibhuti Mishra, spoke the words to the effect set out in the caption. The reporter, who covered the proceedings unfortunately, did not make a note that Shri Bibhuti Mishra had ended his speech and what followed in the report that he had taken was part of the speech of Shri S.M. Banerjee. By reason of this mistake the report which the *Hindustan* got read as if Shri Bibhuti Mishra had spoken the words to the effect set out in the caption and this was the origin of the mistake. Immediately the mistake was discovered, I published a correction in the issue of the paper *Hindustan* date April 2, 1973 and I am forwarding herewith a clipping of this portion. I would only add that this correction was published on the front page and in as prominent a position as that occupied by the original report and in as bold a type as that employed in reporting the speech of Shri Bibhuti Mishra in the issue of the 31st March, 1973. It would be seen that the error was bonafide and was due to the reporter treating a part of Shri S.M. Banerjee's speech as coming from Shri Bibhuti Mishra. I greatly regret the error which was unfortunate.

Lastly, I would seek the indulgence of the Hon'ble Speaker to point out that the official report of Shri S.M. Banerjee's speech shows that the words, or words to the like effect, were used by him in describing the manner in which some of the members of the Rajya Sabha have come to occupy their places.

Finally, I will conclude with a request to the Hon'ble Speaker to condone this bonafide error on the part of the paper.”

4. The Speaker then observed as follows:—

“In view of the explanation given by the Editor and the correction published by him in the newspaper if the House agrees, the matter may be treated as closed.

I hope the House agrees.

I shall also inform the Chairman, Rajya Sabha, accordingly.

May I take this opportunity to appeal to the Hon. members to use necessary restraint and not to say anything in this House which may bring disharmony between this House and Rajya Sabha.

5. The Speaker accordingly sent a letter to the Chairman, Rajya Sabha informing him of the position.

525

LOK SABHA
(1980)

Point of privilege

- (i) *Alleged misleading information given to the House by Ministers regarding the reported arrest of a police officer; and*
- (ii) *Alleged derogatory reference to Parliament made by a Chief Minister during his press conference when a privilege matter was pending before the House.*

For details of the case please see summary No. 255 at pp. 400—02 ante.

526

LOK SABHA
(1981)

Point of privilege

Allegation against a member by a member of the other House.

For details of the case please see summary No. 472 at p. 626 ante.

527

LOK SABHA
(1981)

Point of privilege

Certain observations made about a member (Minister) in the other House by the Chairman

For details of the case please see summary No. 473 at pp. 626-27 ante.

528

LOK SABHA
(1981)

Point of privilege

Reported statement by a Chief Minister regarding the policy of reservation for Scheduled Castes and Scheduled Tribes on which Lok Sabha had passed a Resolution unanimously

For details of the case please see summary No. 474

529
LOK SABHA
(1982)

Point of privilege

Reported proposed summoning of a member of Lok Sabha before a Legislative Assembly in connection with a question of alleged breach of privilege and contempt of that Assembly by the member

Facts of the case and ruling by the Speaker

On 4th October, 1982, Shri Mani Ram Bagri, a member, sought to raise a question of privilege regarding reported proposed summoning of Shri Atal Bihari Vajpayee; another member, before the Rajasthan Vidhan Sabha in connection with a question of alleged breach of privilege and contempt of Rajasthan Vidhan Sabha by Shri Vajpayee for alleging in a Press statement¹ that the candidate belonging to his party for election to Rajya Sabha had been defeated because "some Opposition M.L.As. had been purchased".

2. On 7th October, 1982, the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

"On 4 October, 1982, Shri Mani Ram Bagri had sought to raise question of privilege regarding reported proposed summoning of Shri Atal Bihari Vajpayee, a member of this House, before the Rajasthan Vidhan Sabha in connection with a question of alleged breach of privilege and contempt of the Rajasthan Vidhan Sabha by Shri Vajpayee.

I have not received any communication in this behalf either from Shri Atal Bihari Vajpayee or from the Rajasthan Vidhan Sabha. The House may however like to know that a similar case had arisen in 1962 in the Gujarat Legislative Assembly relating to an article in a paper alleging that money had been passed to get a particular candidate elected at the election to the Council of States. The matter was referred to the Privileges Committee of Gujarat Assembly which thoroughly examined the subject and gave a learned Report in which they had *inter alia* stated that a member while voting at such election is acting in the capacity of a voter of the electoral college and not in the capacity of a member of the House....that the

allegation of bribery and corruption made in the said news item against the....members do not concern the character or conduct of the members in that capacity and do not cast reflections upon the members of the House for or relating to their service therein, and therefore, there is no breach of privilege of the House. The Report of the Privileges Committee was adopted by the Gujarat Legislative Assembly.

As Hon'ble members know it is a well established convention that if a *prima facie* case of breach of privilege or contempt of the House is made out against a member who belongs to another House, the matter is reported to the Presiding Officer of that House for taking such action as he considers necessary. In fact, in pursuance of the decision taken at the Presiding Officers' Conference, Rajasthan Vidhan Sabha had, as early as December, 1958, passed a resolution to the effect that if any member of a House of any other Legislature in India or the Indian Parliament was involved in any case of alleged contempt or of a breach of privilege of the Assembly, the Speaker would refer the matter to the Presiding Officer of the House to which the member belonged.

I have no doubt that all concerned would take the relevant facts into account while dealing with this sensitive and important issue."

530
LOK SABHA
(1984)

Point of privilege

Reference of a question of privilege against a Union Minister and member of Lok Sabha by a Legislative Assembly to their Committee of Privileges.

Facts of the case and ruling by the Speaker

On 22nd August, 1984, the Speaker (Dr. Bal Ram Jakhar) observed as follows:—

"Prof K.K. Tewari has sought to raise a question of privilege regarding reference of a question of privilege against Shri Jagan Nath Kaushal, a member of this House and the Union Minister of Law, Justice and Company Affairs on 21 February, 1984, by the Andhra Pradesh Legislative Assembly to their Committee of

¹As published in *Rajasthan Patrika*, a Hindi newspaper, dt. 4-4-1982.

Privileges for allegedly turning down the resolution passed by the Assembly proposing abolition of the Legislative Council of Andhra Pradesh.

I have not received any communication in this behalf either from Shri Jagan Nath Kaushal, the Minister of Law, Justice and Company Affairs or from the Speaker, Andhra Pradesh Legislative Assembly.

As Hon'ble members know, it is a well established convention that if a *prima facie* case of breach of privilege or contempt of the House is made out against a member who belongs to another Legislature, the matter is reported to the Presiding Officer of that Legislature for taking such action as he considers necessary. This convention was established in pursuance of the recommendations contained in the Report of the Committee of Speakers adopted by the Presiding Officers' Conference on 17 September, 1956.

I may also add here that as laid down in Article 75(3) of the Constitution, the Council of Ministers is collectively responsible to Lok Sabha; the responsibility is joint and indivisible. There is no specific provision in the Constitution laying down the individual responsibility of a Minister and his accountability to Parliament for the acts of omission and commission in his departmental charge.

In the present case, the Minister of Law, Justice and Company Affairs is stated to have informed the Chief Minister of Andhra Pradesh on 31 December, 1983, that 'Government of India have carefully considered the matter. They have not found it possible to agree to the proposal for undertaking legislation for abolition of the Legislative Council in Andhra Pradesh.

Article 169 of the Constitution under which the resolution for abolition of the Legislative Council of Andhra Pradesh was passed by the Legislative Assembly, does not have the effect of imposing any obligation on the Government of India to take action for initiating legislation in Parliament for the purpose. This question also figured before Lok Sabha in 1970 and in reply the then Law Minister had made a statement on 8 December, 1970 that 'Parliament has to exercise its discretion and judgement; for, the word used in the Article is "may" and not "shall"..... "May" denotes discretion and therefore Parliament is not bound blindly to

implement the State Assembly resolution. The Parliament cannot only choose the time for implementation of the resolution but also decide against it. The answer.....is therefore that it is optional.'

It is, therefore, in my opinion, exclusively for the Government to choose the time and occasion to initiate legislation on a particular subject and bring it before Parliament. Moreover, even if it is considered to be a violation of constitutional provisions contained in Article 169, it is a matter to be decided by courts and no question of Parliamentary privilege would arise.

I have no doubt that all concerned would take the relevant facts into account while dealing with this sensitive and important issue."

531
RAJYA SABHA
(1967)

Point of privilege

Alleged reflections by a member on the conduct of a member of the other House.

For details of the case please see summary No. 495 at p. 651-52 ante.

532
RAJYA SABHA
(1967)

Point of privilege

Alleged reflections on the conduct of a member by the members of the other House.

For details of the case please see summary No. 498 at p. 664 ante.

533
RAJYA SABHA
(1969)

Point of privilege

Alleged aspersions on the House by a member of the other House in a press statement.

For details of the case please see summary No. 500 at p. 655 ante.

534
RAJYA SABHA
(1973)

Point of privilege

Alleged reflections on Rajya Sabha in a speech by a member in Lok Sabha as reported by a newspaper.

For details of the case please see summary No. 503 at pp. 657-58 ante.

535
RAJYA SABHA
(1980)

Point of privilege

Certain allegations against a member made by a Minister who was a member of the other House.

For details of the case please see summary No. 507 at pp. 660—62 ante.

536
RAJYA SABHA
(1980)

Point of privilege

Certain allegations by a member against a Minister who was a member of the other House and publication of news report on the basis of the allegations.

For details of the case please see summary No. 509 at pp. 663-64 ante.

REFLECTIONS ON PARLIAMENTARY COMMITTEES/REPORTS

537

LOK SABHA

(1958)

Point of privilege

Premature disclosure of the proceedings of and casting of reflections on the Joint Committee on a Bill.

For details of the case please see summary No. 114 at pp. 221—24 ante

538

LOK SABHA

(1965)

Point of privilege

Casting reflection on the report of a Parliamentary Committee.

Facts of the case and ruling by the Speaker

On the 19th April, 1965, Sarvashri Brij Raj Singh and Ram Sewak Yadav, members, sought to raise a question of privilege arising out of a statement given to the Press by a Spokesman of Bharat Sewak Samaj which appeared to be a rejoinder to the report of the Public Accounts Committee on the Bharat Sewak Samaj and certain remarks alleged to have been made by Shri B. K. Chandiwala, Chairman, Delhi Pradesh Bharat Sewak Samaj, at a public function to the effect that the Public Accounts Committee's Report was like Miss Mayo's report.

2. The Speaker (Sardar Hukam Singh) informed the House that he had received a letter of apology from Shri Chandiwala which stated *inter alia* as follows:—

"I am informed that some of my remarks are liable to be construed as being disrespectful towards Parliament. I have never been in Parliament and I do not know the intricacies and technicalities of Parliamentary practice and procedure.....

I have, however, been all my working life a social worker and a humble follower of Gandhiji.....

I, therefore, respect freedom and democracy and nothing could be farther from my mind than to say anything which is inconsistent with the dignity and prestige of parliamentary institution....

I never intended to cast any aspersions on the conduct of the Public Accounts Committee or its members. My whole reference was to the summary as has appeared in the press. Still, I take this opportunity of stating that I should have been more careful in choosing my expression, and I have no hesitation in tendering my sincerest regret and apology for the same."

3. During the debate, the Minister of Law and Social Security (Shri A. K. Sen) stated that Shri Chandiwala's remarks characterising the Public Accounts Committee's Report like Miss Mayo's Report which had a particular innuendo, did amount to casting a reflection on the Public Accounts Committee but he felt that the letter of apology made sufficient amends and the House should accept it. With regard to the Press statement of the Spokesman of B.S.S. Shri Sen was of the view that so long as motives were not imputed, so long as reflections were not cast on the conduct either of Parliament or of members of Parliament or of any Committee of Parliament, any citizen had a right to place such reports as he wanted to place in answer to criticisms which were made against the conduct or management of any institution, with which he was connected, so long as such expression did not amount to any reflection on the conduct of Committees or Parliament or its Members.

4. After some debate, the Speaker observed *inter alia* as follows:—

".....the Committees of the House are entitled to the same respect as this House is. Every section is represented there. We do not discuss even the reports because we presume that they have the sanctity of the unanimous decisions of the House when all the sections are represented there. They come to decisions that are unanimous; they have so far been unanimous and the dignity lies in that fact all the more. Therefore, if anybody cast any reflection on the decisions or conduct of the Committee really that is a breach of privilege. There is no doubt. There are two notices. One is a statement by the official. It was no business of any official to come out with a statement immediately after the report had been published. I will request

the Government that some action should be taken against him if he has done it. He should realise that it is not his job. When the report of the Committee comes before the House, then if the Government wishes to say anything and contest any finding or conclusion or recommendation of the Committee, it has every right to put up its own case and send it on to me and I will forward it to the Chairman of the Public Accounts Committee. The Committee shall again have a look into those facts and defences and arguments and then if they could not agree among themselves both the statements shall be laid on the Table of the House. That is the procedure that is to be followed. It is very unfortunate that one official went to the Press immediately after this report had been presented and wanted to justify all those in the absence of sending them to the Committee itself.....

Therefore, I will ask the hon. Minister who might be having those people to deal with them they must explain to them. So far as the explanation is concerned, that might be left here. There is nothing to be done further except the request that I have made to the Government that they should make all the Officers and all those connected with these societies also to take care; they must take care that the recommendations of the Committee are not to be criticised in this public manner as has been done just now.....

The second thing is about the remarks of Mr. Chandiwala. I was present with the hon. Prime Minister. The whole House has agreed that this is a clear breach of privilege; there is no doubt about it. I do not think that anybody can put a defence there. He has tried to explain that....he offers an apology at the end and says: 'if I have committed any disrespect, I am sorry for it and offer apologies for that.' I think the House would be adding to its dignity if it allowed the matter to rest there. I hope that if this House has not taken any action at this moment this should not be considered that it would not take any action in future if anything of that sort is repeated. It is a serious matter and everybody concerned should take note of this."

Point of privilege

Publication of a newsreport containing comments on the Report of a Parliamentary Committee.

Facts of the case and reference to the Committee of Privileges

On the 6th May, 1965, Shri S. M. Banerjee, a member, raised a question of privilege regarding publication of a newsreport in the *Indian Nation*, Patna dated the 17th April, 1965 and in the *Hindu*, dated the 19th April, 1965 containing certain remarks allegedly made by the Minister of Home Affairs (Shri G. L. Nanda) in a public speech at Arrah (Bihar) about the Report of the Public Accounts Committee of Lok Sabha on Bharat Sewak Samaj, which he had subsequently denied in a press report.

2. The Speaker (S. Hukam Singh) then observed *inter alia* as follows:—

"We had sent that no notice to the newspapers concerned, the *Indian Nation* and the *Hindu*. We had asked them if they had to say anything in this respect. We did get a very prompt reply from the *Hindu*, which has expressed regret. It says:

"The original report of Mr. Nanda's speech in Arrah was received by us from the United Press of India and published in the usual course. In the light of Mr. Nanda's denial of any reference to the PAC report on BSS, we have already asked the news agency concerned as to how the wrong report was issued by it to its newspaper subscribers. Meanwhile, we have published the Minister's contradiction and can only express regret for having inadvertently but *bona fide*, attributed to the Minister remarks which, it transpires, he never made. We would also ask you to convey to the hon. Speaker our assurance that it was not our intention to commit a breach of privilege of the Lok Sabha or its Public Accounts Committee'.

I think that regret is sufficient so far as this is concerned.

So far as the second one is concerned—*The Indian Nation*—we wrote a letter to the *Indian Nation* on the 23rd April, 1965. But he has not shown even the courtesy of acknowledging the letter or sending any reply to us. Under the

circumstances, I think the House would like to refer this matter to the Privileges Committee so far as this is concerned."

3. The House thereafter referred the matter to the Committee of Privileges.

Findings and recommendations of the Committee

4. The Committee of Privileges, in their First Report, presented to the House on the 19th August, 1965, reported *inter alia* as follows:—

- (i) "At the first sitting held on the 10th May, 1965, the Committee noted that the Editor of the *Indian Nation* had since by a letter dated the 5th May, 1965 received in the Lok Sabha Secretariat on the 7th May, 1965, expressed regret for the publication of 'an inaccurate report regarding certain remarks of the Minister of Home Affairs at a public function at Arrah' and had assured that 'it was far from our intention to cast any reflection on the Public Accounts Committee of Lok Sabha on B.S.S.'"
- (ii) "The Committee also noted that a press report containing the denial issued by the Minister of Home Affairs was promptly published in the *Indian Nation* dated the 23rd April, 1965."
- (iii) "The Speaker before giving his consent to Shri S. M. Banerjee, M.P., to raise the question of privilege in the House on the 6th May, 1965, had in accordance with the established practice, given an opportunity to the Editor of the *Indian Nation*, Patna, to state for the consideration of the Speaker what he had to say in the matter. A registered (Acknowledgement Due) letter to this effect was sent to the Editor of the *Indian Nation* on the 23rd April, 1965, which was received by him on the 26th April, 1965. The reply from the Editor *Indian Nation*, was however, received only on the 7th May, 1965."
- (iv) "The Committee feel that if the Editor of the newspaper had replied earlier or even sent an interim reply, the House and the Committee would have been saved of the time and vexation in considering this matter."
- (v) "The Committee recommend that the regret expressed by the Editor *Indian Nation* be accepted and that no further action be taken by the House in the matter."

Action taken by the House

5. No further action was taken by the House in the matter.

540

LOK SABHA

(1965)

Point of privilege

Casting aspersions on a Parliamentary Committee by a newspaper

Facts of the case and action taken by the House

On the 16th August, 1965, the Speaker (S. Hukam Singh) informed the House that his attention was drawn to an article under the heading "Service or Slander?" published in the *Bharat Jyoti*, Bombay, in its issue dated the 16th May, 1955 which allegedly contained aspersions on the Public Accounts Committee of Lok Sabha. The article stated *inter alia* :

"The Reports of the PAC are becoming increasingly audit reports, similar to those of the Auditor-General, rather than review reports; and are thus becoming increasingly superfluous where they are not positively mischievous in their impact and incidence."

The article had also used in relation to the Public Accounts Committee the phrases "absence of understanding of the underlying social objectives to public undertakings" and "the P.A.C. does not appear to understand that loans in most commercial transactions....are in fact continuously repaid and equally continuously renewed,....."

The Speaker added that under his direction, a letter was addressed to the Editor of *The Bharat Jyoti*, Bombay, asking him to state what he had to say in the matter.

2. The Editor in his reply had stated *inter alia* :

".....It was not meant even remotely to be disrespectful to the Parliamentary Committees.

I am sorry that any such impression should have been created.....Let me assure you that the article could be interpreted in the manner stated by you had not even remotely occurred to me in publishing it.

I trust that this explanation will make the position clear and satisfy the Speaker that the purpose of this article was not, is not never intended to cast aspersions or to show any disrespect to Parliamentary Committee.

Criticism of the Public Accounts Committee is made in good faith and in a constructive spirit and I hope it would be taken in the same spirit.

If any disrespect to, or, aspersions on, the Public Accounts Committee of the Lok Sabha is read into the article in question, I am really very sorry."

4. In view of the explanation and the expression of regret made by the Editor, the matter was closed.

541

LOK SABHA

(1965)

Point of privilege

Comments on the Report of a Parliamentary Committee by an official in newspapers

Facts of the case and action taken by the House

On the 16th August, 1965, the Speaker (S. Hukam Singh) informed the House that his attention was drawn to a letter to the editor under the caption "Khadi Commission" published in the *Times of India*, New Delhi, dated the 26th May, 1965, an article under the caption "Working of Khadi and Village Industries Commission" which appeared in the *Economic Times*, Bombay, dated the 21st May, 1965 and an article under the caption "Public Accounts Committee and the Commission" published in the *Jagriti* Bombay, dated the 20th May, 1965. The letter to the editor and the articles, written by the Director of Publicity, Khadi and Village Industries Commission, Bombay contained comments on the recommendations and observations made by the Public Accounts Committee of Lok Sabha in their 38th Report regarding the Khadi and Village Industries Commission.

The Speaker added that the matter was taken up with the Department of Social Security for suitable action in the light of the ruling given on the 19th April, 1965 in the case of Bharat Sewak Samaj, has the findings and recommendations of a Parliamentary Committee should not be contested upon in a public statement or in the Press by any official or spokesman of a body whose working has been examined by the Committee.

2. In reply, the Department of Social Security forwarded a copy of the letter from the Chief Executive Officer of the Khadi and Village Industries Commission, which stated, *inter alia* as follows:—

"The Director of Publicity of the Commission issued a letter to the Press, which appeared in the *Times of India*, Bombay, in the *Economic*

Times, Bombay, and also in the *Jagriti*. This letter was written solely as a reply to the comments and criticisms of the Press about the working of the Commission.

....there was neither the intention nor an effort to call into question publicly any of the observations of that august body. The Commission begs to assure the P.A.C. that neither the Director of Publicity nor the Commissioner did have, has or can have any intention or desire to disrespect the P.A.C.

The Commission as well as the Director of Publicity feel sorry that they have been responsible for creating a feeling of dissatisfaction in the mind of the P.A.C. If there is anything in the article, however, to which exception can be taken, both the Commission and the Director of Publicity feel sorry for it and apologize."

3. In view of the explanation and apology tendered by the Chief Executive Officer of the Khadi and Village Industries Commission, the matter was closed.

542

LOK SABHA

(1966)

Point of privilege

Casting reflections upon the Speaker and members of a Parliamentary Committee

For details of the case pl. see summary No. 429 at pp. 586-88 ante.

543

LOK SABHA

(1966)

Point of Privilege

Alleged contempt of the House and of a Parliamentary Committee by certain statements made by a Minister in the House and before the Committee.

For details of the case please see summary No. 432 at pp. 590 ante.

544
LOK SABHA
(1969)

Point of Privilege

Aspersions cast on a Parliamentary Committee in an article published by a newspaper

Facts of the case and reference to the Committee of Privileges

On the 11th April, 1969, Shri George Fernandes sought to raise a question of privilege in respect of an article entitled "Success Story of Trombay Fertiliser", published in the *Financial Express*, Bombay, dated the 1st April, 1969, allegedly casting aspersions on the Committee on Public Undertakings, which *inter alia* read as follows:

"A senior official of the plant told this correspondent during a recent visit that COPU (Committee on Public Undertakings) must have been confused about the various foreign contractors in the plant. When the contract was signed in 1962, Chemicos were undoubtedly in the lead...

But many in the plant felt disgusted at the ill-timed report of COPU which to quote one 'brought back the dirty linen for a second wash in the public'. Trombay has taken two years to bring out its true image. True, it can face the storm now. It is to be hoped that the COPU report would turn out to be nothing more than kindling the dead fire."

2. On the 16th April, 1969, the Minister of Petroleum & Chemicals and Mines & Metals (Dr. Triguna Sen) made a statement in the House on the matter in which he stated that the Industrial Correspondent of the *Financial Express* had visited the Trombay Factory along with 24 other press correspondents and 11 members of the United States Information Service as part of a group sponsored by the latter and the General Manager had categorically denied that he ever discussed the Report of the Committee on Public Undertakings with the correspondents.

3. Shri George Fernandes moved the following motion which was adopted by the House:

"That the question of privilege in respect of the article entitled "Success Story of Trombay Fertilizers" published in the

Financial Express Bombay, dated the 1st April, 1969, be referred to the Committee of Privilege for investigation and Report."

Financial Express, Bombay and the General

4. The Committee of Privileges, after calling for written explanations of the Editor of the *Financial Express*, Bombay, and the General Manager of the Trombay Unit of the Fertilizer Corporation of India and examination of the Editor in person, in their Seventh Report, presented to the House on the 8th August, 1969, reported *inter alia* as follows:

- (i) "The Committee examined on oath, Shri G. M. Laud, Editor, *Financial Express*. During his evidence, Shri Laud stated that he as editor of the newspaper, took full responsibility for the impugned article written by his Industrial Correspondent and added that it was not his intention or the Industrial Correspondent concerned to cast any aspersions on the Committee on Public Undertakings. When the Committee pointed out to the witness the objectionable passages in the *Financial Express*, he expressed his sincere regret for the lapse and tendered his unqualified apology. He then submitted to the Committee the following written statement which he undertook to publish in the *Financial Express*, Bombay.

'It has been pointed out by the Committee of Privileges to me that the following passages occurring in the article entitled "success Story of Trombay Fertilizer" by our Industrial Correspondent published in the *Financial Express*, Bombay, dated the 1st April, 1969, cast aspersions on a Parliamentary Committee, and therefore, constitute a breach of privilege and contempt of the House:

- (i) A senior official of the plant told this correspondent during a recent visit that COPU must have been confused about the various foreign contractors in the plant.'
- (ii) 'But many in the plant felt disgusted at the ill-timed report of COPU which to quote one "brought back the dirty linen for a second wash in the public".'
- (iii) 'It is to be hoped that the COPU report would turn out to be nothing more than kindling the dead fire.'

It was not the intention of Industrial Correspondent or of the Editor to cast any aspersions on the Committee on Public Undertakings of Parliament. I express my sincere regret for this lapse and tender my unqualified apology."

(ii) "The Committee feel that in view of the unqualified apology tendered by the Editor, *Financial Express*, Bombay, no further action need be taken against, the Editor or the concerned Industrial Correspondent of the newspaper."

(iii) "The Committee are satisfied that the officers of the Trombay Unit of the Fertilizer Corporation of India have no hand in the publication of the impugned article."

(iv) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

5. No further action was taken by the House in the matter.

545
LOK SABHA
(1972)

Point of privilege

Reflections on a Parliamentary Committee contained in a Written Statement filed by Government before a Commission of Inquiry and certain reported statements made by Government Counsel before that Commission

Facts of the case and reference to Committee of Privileges

On the 7th April, 1972 Shri Indrajit Gupta, a member, raised a question of privilege regarding certain reported statements relating to the 66th Report of the Committee on Public Undertakings (Fourth Lok Sabha) alleged to have been made before the Pipelines Inquiry Commission (Takru Commission) by the Counsel appearing for the Government. Shri Indrajit Gupta stated that according to the following news report circulated by the U.N.I. and published in the *Patriot*, New Delhi and *Hindustan Standard*, Calcutta, in their issues dated the 2nd April 1972, the Counsel appearing for the Government made derogatory remarks about the Parliamentary Committee:—

"They (Counsel) argued that the Commission should pay no heed to the 'feelings and comments' expressed in the report. For instance the Committee on Public Undertakings' charge that instead of holding the officials responsible for lapses, the

Government had made 'persistent effort to slur over their dereliction of duty' and that a departmental inquiry should be held against them was 'merely a finale on an emotional note' and no action had been recommended."

While raising the question of privilege Shri Indrajit Gupta stated *inter alia* as follows:—

"I would just quote the relevant paragraphs from the recommendation of the Committee on Public Undertakings which are being referred to as being something based on emotion and therefore, not worthy of being taken into consideration....

"The Committee also feel compelled to record their feeling that, instead of holding the officers responsible or their lapses, there appears to have been a persistent effort to slur over their dereliction of duty and to fix the responsibility though copious facts to substantiate such lapses have come on record. The Committee would, therefore, like the Government to take immediate steps to bring to book the guilty officers on the basis of the evidence that is already available. The least that could be done is to proceed departmentally without delay against the officers concerned under the relevant Government servants Conduct Rules. The Committee feel that Government, in the larger interests of the public sector, should not allow a feeling to go around that officers can commit such grave lapses and indulge in dereliction of duty with impunity and go unpunished."

They (Counsel) have exceeded their prerogatives and their rights, and this amounts to a definite breach of privilege of the Committee and, therefore, breach of privilege of Parliament. And I would request you to take this into consideration and forward it to the Committee of Privileges so that they may go further into the details of the matter.

In the reply of the Ministry of Petroleum and Chemicals, Government of India, to the application dated 21st March, 1972 of the National Committee and Shri Arun Roy Chowdhury, for reconsideration of the terms of reference and their scope, which is a published document, it is stated at page 7, para 18:

"The Committee on Public Undertakings Report merely records a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved in the

two contracts. The word 'feeling' is significant. The Committee on Public Undertakings has not formed an opinion. The P.U.C. Report has not recommended to the Government to investigate and enquire into the 'slurring over by certain officers of Government IRL/IOC'."

2. Thereafter, the Minister of Law and Petroleum and Chemicals (Shri H.R. Gokhale) stated *inter alia* as follows:—

"Much that the hon. member said would have some substance if the newspaper report to which reference was made was correct. It is true that two counsel are appearing for the Ministry before the Takru Commission, and the two counsel are Mr. K. V. Dadachanji and Mr. Ram Panjwani...I have asked both the counsel as to the facts in the matter. Both have stated that the newspaper report in question is wrong and distorted and that they never uttered the expressions imputed to them in the newspaper report or any expressions derogatory to the Committee on Public Undertakings.

I would submit that the Counsel certainly had the right to interpret what was the recommendation contained in the 66th Report. The paragraph to which reference was made by the hon. member is certainly the relevant paragraph. There the word used is that they have a 'feeling' etc., The argument before the Commission was that this was only a record of an impression which the Committee had formed, but this was not a positive finding or a recommendation, because it was argued, wherever the Committee wanted to make a recommendation or a positive finding, they have specifically said so. But in this paragraph, they have only recorded a feeling, which means it was not a recommendation or a finding but an impression which the Committee had formed on the basis of the evidence placed before them. This was the only thing said before the Commission according to the two counsels.

....At no time had the Government taken up the position that the 66th Report was irrelevant and should not be looked into and so on. Even in the written reply filed in answer to an application of Mr. Arun Roy

Chowdhury and the National Committee by one of the counsel appearing for the Government, the position taken was the same, viz., the basis of the whole enquiry is the 66th Report of the Public Undertakings Committee. The difference was only this: which part of it is the recommendations or finding and which part is merely recording an impression. Surely, the Counsel had the right to argue this before the Commission.

...My enquiry about what they told the Court shows that they (Counsel) did not tell the Court what is reported in the newspapers. They categorically denied it...It could never have been the attitude of the Government to say that the Committee on Public Undertakings, Report should be brushed aside or should not be looked at or it is only an emotional finale of what they have said earlier...The only thing they have said was the interpretation of that particular paragraph, saying it is not a recommendation. It is for the Court to decide whether it was a recommendation or not. That is all I have to submit. So I would say that there is no basis for the complaint which the hon. member has made".

3. After some discussion in the House, the Speaker observed *inter alia* as follows:—

"...We have a convention...that whenever a newspaper report is contradicted and there is a dispute about the veracity or the truth about the newspaper report, we refer that to the paper concerned and invite their comments.

...I fail to understand and how all the three newspapers could be wrong and only the Counsel could be correct. That is the reason. We have to listen to them....

I have not relished what was said by them (Counsel). They are taking shelter under certain words that it was the feeling. The report as it appears, is that all of them who were members of the Committee made these observations under emotional stresses. I happened to be the Chairman of the Committee on Public Undertakings before. I took over as Speaker, and this matter was taken over by them.

...after a lot of discussion and consideration, we came to certain conclusion,

and those conclusions were cast in a very polite language. But that does not mean that, if we expressed in a fine language, in a very cultural language, you could relegate it to the position 'feelings'. This is an August Committee of the House. All these Committees represent the whole House and they have the same privileges, the same protection, as the House itself.

...if the observations of the Committee were to be treated so lightly and if the sovereignty of the House was to be subjected to the whims of the bureaucrats, God help us. So, what I am proposing to do is that I will have the version from those papers".

4. On 18 April, 1972, when Shri Indrajit Gupta, again raised the matter in the House the Speaker while referring the matter to the Committee of Privileges observed *inter alia* as follows:—

"I have received the information from the news agency correspondent concerned in which he says that the information published was correct; he had just reproduced the proceedings in the Commission. I asked the Minister concerned. Of course besides the information he gave to us he said that the advocates deny it. So I expressly told him to get this information from the Chairman of the Commission. The Commission has informed us that they do not keep detailed regular records or reports of the proceedings.

I have been very seriously considering the matter. This is a unique case in which three important parts of society were concerned...ourselves that is, this House...we claim certain freedoms and also privileges...the press...they too claim certain freedoms and privileges....and the legal profession.

The Minister said that the advocates did not say what they are alleged to have said. Even if he had just said, he did say it, we were bound to review the matter in its proper perspective. The field of advocacy is very wide with a lot of latitude and freedom. Even when we go in appeal from a lower Court to a High Court or from a High Court to the Supreme Court, we say, the judgement is erroneous fallacious, and very often, we say

the judgement is perverse. In respect of these low courts against whom an appeal goes to higher Courts, they have their own privileges and protections also. The field of advocacy is so wide that they too have full protection.

So, I think, considering all these various aspects of the question, the best thing is that the Privileges Committee should examine all these issues, not with a set view that we have to disturb the freedoms and privileges claimed by all these three parts but with a view to finding out facts. It is not essential that they must give their findings.

They can consult the Speaker also if they think that I can be helpful to them—of course. I do not bind them by saying this and they can examine various aspects of the matter as they think proper.

The Minister said that the advocates had not said it. Even if they had said it they were advocates—it is the profession of advocates to interpret, before a Court or a Commission. Of course, they act with freedom in the field of their own profession.

I think, the Committee will keep this in view and not encroach upon the liberties which their profession claims. So, I entrust it to the Privileges Committee for examination."

Findings and recommendations of the Committee

5. The Committee of Privileges after hearing in person Shri Indrajit Gupta, in their Fourth Report, presented to the House on the 11th May, 1973, reported *inter alia* as follows:—

- (i) "The Committee decided, in the first instance, to call for the opinion of the Ministry of Law and Justice on the question of the professional privileges enjoyed by the Counsel before a Commission of Inquiry and by the Press Correspondents in reporting the proceedings of a Commission of Inquiry *vis-a-vis* the powers, privileges and immunities of Parliament and its members, particularly in the context of the present case."
- (ii) "The Committee, thereafter, examined in person Shri Indrajit Gupta, M.P."
- (iii) "Shri Indrajit Gupta, M.P. in his evidence before the Committee stated that the impugned remarks made by the Counsel appearing on behalf of the Ministry of Petroleum and Chemicals, before the Takru Commission,

amounted to a breach of privileges as they tended to denigrate and ridicule the recommendations contained in the 66th Report of the Committee on Public Undertakings. The Counsel was speaking before the Takru Commission according to the brief supplied by the Ministry and he was elaborating the arguments contained in the written statement filed by the Ministry before the Takru Commission. His complaint was, therefore not against the Counsel who had the liberty to elaborate the arguments in his own language, but against the Ministry of Petroleum and Chemicals who had supplied to the Counsel the brief or statement which contained the following objectionable paragraph which the Counsel was elaborating:—

“The PUC Report merely records a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved in the two contracts. The word ‘feeling’ is significant. PUC has not formed an opinion. The PUC Report has not recommended to the Government to investigate and enquire into the slurring over by certain officers of Government/IRL/OIC.

(Paragraph 18 in the Statement of the Ministry of Petroleum and Chemicals dated the 30th March, 1972 filed before the Takru Commission).”

(iv) “In fact, Shri Indrajit Gupta stated before the Committee *inter alia* as follows:—

‘My quarrel is not with the Counsel, because. I believe that Counsel was speaking to a particular brief and in doing so, he is entitled, as an Advocate to use certain language and all that. But the basic brief is also available. It is a public document; it is a Written Statement filed before the Takru Commission as the reply of the Ministry of Petroleum and Chemicals.....

I am not concerned with what Mr. Dada Chanji said. He has got that much liberty to elaborate the arguments and use such expression. But what was the argument which he was elaborating? The argument was contained in the brief given to him by the Ministry....My quarrel is not with his argument but with the attitude of the Ministry towards the Committee on Public Undertakings.”

(v) “After discussing the matter with Speaker, the Committee requested the Minister of Petroleum and Chemicals to appear before the Committee

and to apprise the Committee of his views in the matter. Shri Dev Kanta Borooah, the Minister of Petroleum and Chemicals accordingly appeared before the Committee on the 13th March, 1973 and made the following statement:—

‘I have gone through the papers of this case. I have no hesitation in saying that the following paragraph contained in the Statement of the Ministry of Petroleum and Chemicals dated the 30th March, 1972, filed before the Pipelines Inquiry Commission (Takru Commission) was not properly worded:—

“The PUC Report merely records a feeling that a section of Officers slurred over the illegal actions of the guilty Officers who were involved into the two contracts. The word ‘feeling’ is significant. PUC has not formed an opinion, the PUC Report has not recommended to the Government to investigate and enquire into the slurring over by certain Officers of Government/IRL/OIC”.

I offer my sincere apology to the Committee of Privileges and the House for the inadvertent use of the words in the above paragraph based on incorrect appreciation of the findings of the Committee, which are not in consonance with the dignity of Parliamentary Committee. There was no intention either to belittle the Committee on Public Undertakings or its recommendations contained in the 66th Report (4th Lok Sabha) of that Committee or to cast any aspersions on the Committee.

I hope the Committee will accept my apology on behalf of my Ministry and agree to close the matter’.”

(vi) “The Committee appreciate the readiness with which Shri Dev Kanta Borooah, the Minister of Petroleum and Chemicals, conceded that the impugned paragraph in the Statement filed before the Takru Commission by the Ministry of Petroleum and Chemicals was based on incorrect appreciation of the findings of the Committee on Public Undertakings.”

(vii) “In view of the explanation and the sincere apology tendered by the Minister of Petroleum and Chemicals on behalf of his Ministry, the Committee are of the opinion that the matter does not require any further action by the House and may be dropped.”

(viii) “The Committee recommend that no further

action be taken by the House in the matter and it may be dropped."

Action taken by the House

6. No further action was taken by the House in the matter.

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LOK SABHA

(1972)

Point of Privilege

Reflections on a Parliamentary Committee.

Facts of the case and action taken by the House

One Shri Mahabir Parshad Gupta, in a letter addressed to the Speaker, complained regarding omission of a paragraph from his petition reproduced in the Fourth Report of the Committee on Petitions (Fifth Lok Sabha) presented to the House on the 23rd May, 1972. In his said letter, Shri Gupta also made the following disparaging remarks against the Committee on Petitions:—

"We also wish to draw your kind attention to the *intriguing* omission of an important paragraph by the Petition Committee while it reproduced the petition upto the paragraph deleted.... It is surprising 2,000 subscribers. We wonder why the petition has been reproduced in a mutilated form.

We are sure that you will agree with us that such a tampering with the petition submitted to the Parliament is *highly improper* and calls for an inquiry. We request you to enquire into this *grave impropriety* and ensure the incorporation of the omitted paragraph."

Shri Mahabir Parshad Gupta also enclosed with his letter a copy of a statement issued by him at a Press Conference on the 5th June, 1973, and published in the *Motherland*, New Delhi dated the 6th June, 1973, which read *inter alia* as follows:

"It is *intriguing* while reproducing our petition to the Parliament in its report, the Parliament Committee has omitted an important paragraph. The following is the paragraph deleted...It is surprising that this paragraph should have been shut out from the proceedings of the Petition Committee

while our entire petition has been reproduced.

.....As regards our demands that the Subscriber should be informed through the Registered letter before effecting disconnection of the phones for the non-payment of the bills, the Parliament Committee has made a *half-hearted* recommendation in putting the onus on the subscribers. The Parliament Committee wants such of the subscribers wanting a registered letter should write to Delhi Telephone District. But this is *not* a *reasonable and practicable suggestion*..."

2. The Committee on Petitions who considered the matter at their sitting held on the 11th August, 1972, observed¹:—

"The Committee were of the opinion that certain remarks made by Shri Mahabir Pershad Gupta in his letter, dated the 24th July, 1972, addressed to the Speaker, Lok Sabha, and in his Press statement issued on the 5th June, 1972 (a copy of which he had enclosed with his aforesaid letter to the Speaker) cast reflections on the character and proceedings of the Committee on Petitions and therefore, *Prima facie* constituted a breach of privilege and contempt of the Committee and the House."

3. Shri Mahabir Pershad Gupta who personally appeared before the Committee on 1 September, 1972, as directed by the Committee made *inter alia* the following statement:—

"I regret it very much..... I was unaware of the law. Had I known it. I would not have made the impugned remarks....I regret unconditionally....If it amounts to a breach of Privilege of the Committee, I regret unconditionally."

4. The Committee thereupon decided that, in view of the unqualified apology tendered by Shri Mahabir Pershad Gupta, the matter might be treated as closed.

5. No further action was taken in the matter.

¹Minutes of the sitting of Committee on Petition held on 11-8-1972 and 1-9-1972 laid on the Table of Lok Sabha on 21-12-1972.

LOK SABHA
(1974)

Point of Privilege

Alleged reflections on a Parliamentary Committee by an Officer in an affidavit filed by him before a Commission of Inquiry.

Facts of the case and ruling by the Speaker

On the 30th April, 1974, Shri Madhu Limaye, a member sought to raise a question of Privilege against Shri C.R. Das Gupta of Indian Oil Corporation for filing an affidavit on the 8th February, 1971 before the Pipelines Inquiry Commission (Takru Commission) appointed by Government in pursuance of recommendations contained in the 66th Report of the Committee on Public Undertakings (Fourth Lok Sabha) allegedly controverting the facts as contained in the said Report of the Committee on Public Undertakings. While raising the question of Privilege, Shri Limaye stated *inter alia* as follows:—

"The Committee (on Public Undertakings) in its 66th Report presented by it during the 4th Lok Sabha, reported *inter alia* as follows:—

'It is also on record that the Managing Director was acting on his own in his dealings with Snam as well as Bechtels in vital matters concerning the capacity of the Pipeline, bypassing thus the authority both of the Board of Directors and Government.'

The Committee further observed in its 33rd Report (5th Lok Sabha) as follows:—

'In the opinion of the Committee, reference of this particular matter under (a) (ii) to Commission of Inquiry was not warranted. In the context of these recommendations an enquiry would have been in order for the specific purpose of fixing responsibility for the grave lapse pointed out by the Committee....The Committee expect the Government to defend and pursue their recommendations contained in their 66th Report of the Fourth Lok Sabha (1969-70) on Indian Oil Corporation (Pipelines Division) in letter and spirit before the Commission of Enquiry with the same sense of urgency that was markedly evident from the above report.....'

Instead of it, the Government through Shri C.R.

Das Gupta filed an affidavit controverting the facts contained in the conclusions of the Committee as were evident from the following paragraph of the affidavit:—

'These facts would indicate that neither the Managing Director bypassed the Board in his dealings with Snam and Bechtels in vital matters concerning the capacity of the Haldia-Barauni-Kanpur pipeline nor the Amendment of the Contract adversely affected the capacity of the pipeline, and therefore, the question of any negligence on the part of anyone in the I.O.C. does not arise'."

2. Shri Limaye contended that the aforesaid paragraph in the affidavit of Shri C.R. Das Gupta constituted a breach of Privilege and contempt of the House and might be referred to the Committee of Privileges.

3. After some discussion on the matter, the Speaker (Dr. G.S. Dhillon) observed *inter alia* as follow:—

"I have examined it very thoroughly. But I think Mr. Das Gupta never made any reference to the Public Undertakings Committee just filed the document before the Takru Commission without direct or indirect reference to the Public Undertakings Committee The difficulty in sending it to the Privileges Committee is this. The Commission is already seized of it and might not want that there should be any clash. I will keep it pending and we shall discuss it later no....so far as his appointment (appointment of Shri C.R. Das Gupta as Chairman of I.O.C.) is concerned. I shall ask the Government to make this position clear if they want to."

4. On the 10th May, 1974, the Minister of Petroleum and Chemicals (Shri D.K. Barooah) made a statement in the House explaining the circumstances leading to the appointment of Shri C.R. Das Gupta, as Chairman of the I.O.C.

5. On the 2nd August, 1974, disallowing the question of Privilege the Speaker observed *inter alia* as follows:—

"I have examined the matter carefully. I find that Shri C.R. Das Gupta in his affidavit filed before the Pipelines inquiry Commission (Takru Commission) on the 8th February, 1971, had not made any derogatory reference, direct or indirect to the Committee on Public

Undertakings. Further the affidavit was filed by Shri C.R. Das Gupta before the Pipelines Inquiry Commission (Takru Commission) about two years prior to the apologies and corrections made by Sarvashri P.R. Nayak and S.S. Khera. I am, therefore, of the view that on the facts of this case, on question of Privilege is involved in the matter."

548

LOK SABHA

(1978)

Point of privilege

Allegations made by a member against another member and a Parliamentary Committee in the House

For details of the case please see summary No. 464 at p. 622-23 ante.

549

LOK SABHA

(1979)

Point of privilege

Certain observations made by a Counsel and a Judge of the Calcutta High Court regarding the recommendations of the Committee on Public Accounts contained in its Report.

Facts of the case and ruling by the Speaker

On 16th April, 1979, the Speaker (K.S. Hegde) informed the House that Shri Jyotirmoy Bosu, M.P., had given a notice of question of Privilege regarding certain observations by a counsel and a Judge of the Calcutta High Court on the recommendations of the Public Accounts Committee contained in their 176th Report, (Fifth Lok Sabha) in paragraph 9.1 to 9.16 Disallowing the notice of question of privilege, the Speaker ruled as follows:—

"Shri Bosu has given notice of a privilege motion under Rule 222/223 of the Rules of Procedure and Conduct of Business in Lok Sabha against Mr. Justice Tarun Kumar Basu, a Judge of the Calcutta High Court in respect of a judgement delivered by him on March 8, 1978, in *Grindlays Bank Ltd. vs. ITO*. Therein, the petitioner Grindlays Bank Ltd. had challenged the validity of notices issued on them by the Income-tax Officer under Sections 148 of the Income-tax Act, 1961 in respect of the assessment year 1958-59, 1966-67 to 1970-71. This case was tried along with another case

which is not relevant for the present purpose. Therein the Judge was considering the scope of the expression information found in Section 147 (b) of the Income-tax Act. Various contentions were raised in that case. Most of them are not relevant in these proceedings.

It appears to have been contended on behalf of the Income-tax Officer that the report of the Public Accounts Committee constituted an 'information' within the meaning of Section 147(b). The contention appears to have been rebutted by the Counsel for the petitioners. Relevant observations are found at pp. 727-728 of the Income-tax Report (1979) 116 I.T.R. They read as follows:—

'Lastly, Dr. Pal submitted that the report of the Public Accounts Committee could not be an "information" because the Committee did not form any opinion as to the allegations of under-assessment but had merely indicated the allegations made by one R.P. Gupta, who is the ex-employee of the petitioner bank, and was dismissed by the bank, on 13th November, 1971. It was pointed out that unlike in the case of *R.K. Malhotra vs. Kasturbhai Lalbhai* (1977) 199 ITR 537 (S.C.) on which Mr. B.L. Pal relied, there was no formation of opinion or view of the Public Accounts Committee'.

'All that was stated was that there were allegations by Mr. Gupta and investigations were in progress. It was submitted that the notice under S. 147(a) or S. 147(b) could not be issued merely for investigation. (See the Supreme Court decision in the case of *Chhugamal Rajpal vs. S.P. Chahliha* (1971) 79 ITR 603 and the case of *Sheo Nath Singh vs. ACC* (1971) 82 ITR 147).'

'Lastly Dr. Pal pointed out that, in the recorded reasons, there is no mention of the Public accounts Committee Report and consequently, it did not lie in the mouth either of Mr. H.P. Roy who had filed the affidavit or of Mr. B.L. Pal who argued the case before me that this report of the Public Accounts Committee constituted "information" justifying the reopening. As I have already indicated, according to Dr. Pal, the Public Accounts Committee did not form any opinion.

Even assuming that the PAC had formed any opinion which could be an "information" within the meaning of s. 147(b) of the Act, it was submitted that the opinion must be of a person, body, authority or authorities competent and authorised to form the opinion of pronouncing the law as was held in the case of *R.K. Malhotra v. Kasturbhai Lalbhai* (1977) 109 ITR 537 (SC). It was submitted that the Public Accounts Committee was not competent to form such an opinion.

In my view, the contention of Mr. Pal must be accepted. On the materials and on the submission made. I find that even for the assessment years, 1969-70 and 1970-71, there is no "information" within the meaning of s. 147(b) of the Act which could justify the reopening."

As the contempt alleged is said to be against the PAC. I thought it desirable to get the opinion of the PAC before deciding upon the next step. I accordingly referred the matter to the PAC.

The PAC opined that as the learned judge had accepted the first two of the three contentions advanced before him, it was not necessary for him 'to make a reference to the competency of the Public Accounts Committee to form an opinion constituting "information" within the meaning of section 147(b) of the Income-tax Act.' The Committee proceeded to observe:

"The Judge was not called upon to pronounce the judgment on this aspect and by accepting Dr. Pal's contention in this regard, he expressed an opinion which in view of the implications involving the working of a Committee of Parliament could have been avoided."

In the opinion of the PAC it is competent to form an opinion which would constitute 'information' both in fact and in law under section 147(b) of the Income-tax Act.

It felt that the decision of the judge on this point will detract from the Committee's effectiveness in general and in matters pertaining to the vital area of taxation by the Union Government in particular. Consequently it felt that appropriate measures should be taken in order to meet the legal position arising out of the said pronouncement. The Committee refrained from expressing any opinion as to whether there was any breach of privilege of the PAC. It opined that question should be decided in

accordance, with the procedure laid down in the Rules of Procedure and Conduct of Business in Lok Sabha.

Let me assume (without deciding) that the view of the learned Judge on the question of law formulated above is incorrect. What follows then? An incorrect decision by itself either on a question of law or on a question of fact does not amount to a breach of privilege of the House or its members. No malice is attributed to the Judge. A wrong decision has to be corrected by adopting procedures recognised by law and not by taking punitive action against the concerned Judge. The theme of committed Judges is alien to our jurisprudence. The rule of law runs through the veins of our constitution. Any idea of subordinating the judiciary to the other organs of the State is repugnant to our Constitution. Each organ of the State functions within the limits laid down by the Constitution Harmony and mutual respect and not confrontation between the various organs is the very prerequisite of our polity. Difference of opinion should not be viewed as a contempt. Courts of law have stuck down many laws enacted by this Parliament as being beyond its competence. That does not amount to disrespect for this House.

It is well recognised that Parliament is the most important and most powerful organ of the State. But under our Constitution, Parliament is not omnipotent. Power without restraint is self-destructive. Restraint is inbuilt in our Constitution.

As a face of the restraint, Courts have been given the power to decide about the validity of laws enacted by the legislatures or a rule made by a rule-making authority or decision taken by an official.

The protection of the privileges of this House and its members is very important. The power conferred on this House to punish for any breach of its privilege is very large. Therefore, the same has to be used sparingly and only in appropriate cases. There is no question of any breach of privilege in this case.

In this view, it is not necessary for me to go into the question whether the present proceedings are barred by Article 121 of the Constitution, which prescribes that no discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President, praying for the removal of the Judge as hereinafter provided.

For the reasons mentioned above, I am unable to accord my consent to the motion before me."

2. The matter was, thereafter, closed.

550
LOK SABHA
(1980)

Point of privilege

Alleged derogatory remarks made by former Chairman of a Public Undertaking in a press interview regarding certain reports of a Parliamentary Committee of the previous Lok Sabha and its Chairman.

Facts of the case and reference to the Committee of Privilege

On 22nd January, 1980, Shri Jyotirmoy Bosu gave notice of a question of privilege against Shri J.R.D. Tata, former Chairman of Air India, in regard to certain remarks made by Shri Tata in a press interview to the P.T.I. on 28th May, 1979, as reported in newspapers on 29th May, 1979, in respect of the 42nd, 52nd and 53rd Reports of the Committee on public Undertakings on Air India. The press-interview, as it was reported in *The Times of India* dated 29th May, 1979, read, *inter alia*; as follows:—

“PUC ‘Attack’ on A-I uncalled for: Tata

NEW DELHI May, 28: Mr. J.R.D. Tata, former Chairman of Air India and doyen of Indian Industry has described the report of the Public Undertakings Committee of Parliament on Air India as ‘astonishing and an uncalled for attack on the most prestigious and successful public sector enterprise in the country.’

‘Mr. Tata, in an interview to PTI said he was himself one of the witnesses summoned by the Committee to give evidence and he was astonished at the extent of the ignorance displayed of the economic and administrative realities (by the Committee).’

‘I was sorry at seeing so important a part of the machinery of Parliament misused, as it seems to have been in this case, to subserve personal opinions or creeds.’

Even though every effort was made to educate the Committee on the special character and features of this ‘most fiercely competitive of all inter-national industries’, it was abundantly clear to him that Mr. Jyotirmoy Bosu, Chairman of the Committee had ‘made up his mind in advance to write an adverse report’.

‘Mr. Tata said that the manner in which the proceedings were conducted, virtually by the Chairman alone in the total absence of the other members, and therefore without the prescribed quorum was an ‘inquisition rather than an inquiry’.”

* * * *

“Referring to the Committee’s remark that Air India executives have been living like maharajas at the cost of the poor millions of the country. Mr. Tata said it was a cheap gibe and outrageous, to put it mildly.”

* * * *

“It also provide its own sad evidence of how far, or should I say how low, some elected representatives of the people are prepared to go to satisfy political or ideological ends, irrespective of the harm and loss of prestige thereby caused not only to those so unfairly attacked but also to the public sector as a whole, Mr. Tata added.”

2. On 2nd February, 1980, the Speaker (Dr. Bal Ram Jakhar) while referring the matter to the Committee of Privileges, observed *inter alia*, as follows:—

“Shri Jyotirmoy Bosu, M.P., had given notice of question of privilege against Shri J.R.D. Tata, former Chairman of Air India, regarding alleged ‘derogatory remarks with regard to Members of Parliament, members of the Public Undertakings Committee (Sixth Lok Sabha) and its Chairman’ made by him in a press statement issued by him on 28th May, 1979.

This notice had come up during the last Lok Sabha and the then Speaker had given his consent under rule 222 and the matter was referred thereafter on a motion in the House to the Committee of Privileges. Before, however, the Committee of Privileges could give their Report, the Lok Sabha was dissolved, Since Shri Jyotirmoy Bosu, who had moved the matter in 1979, is pressing it gain, I give my consent under rule 222.”

3. Thereafter, the following motion moved by Shri Jyotirmoy Bosu was adopted by the House:—

“That the motion of breach of privilege against Mr. J.R.D. Tata be sent to the Privileges Committee.”

Findings and recommendations of the Committee

4. The Committee of Privileges, after hearing Shri J.R.D. Tata, in their First Report, presented to

the House on 8th May, 1981, reported *inter alia* as follows:—

- (i) "The Committee examined on oath Shri J.R.D. Tata on 12 July, 1980. During the course of his evidence, Shri Tata tendered apology more than once. As a matter of fact in the very beginning of his evidence he stated that he had nothing to add to the letters written by him to the Speaker in July, 1979 and on 1 February, 1980, 'except to express sorrow'. Even in the letters to the Speaker, Shri Tata had expressed regret in respect of some portions of his statement. In his evidence before the Committee to a specific question: 'Did you, or did you not say':

'It provides its own sad evidence of how far or, shall I say, how low some elected representatives of the people are prepared to go to satisfy their political or ideological ends, irrespective of the harm and loss of prestige thereby caused not only to those so unfairly attacked but also to the public sector as a whole.'

Shri Tata replied: 'I said this, undoubtedly, and I have apologised for it.'

Again a question was put, 'though apology would not be a weapon of defence, do you even at this stage feel that what you have said is wrong, and are you prepared to tender your unqualified and unconditional apology for the words used and about which you have been given notice that they are derogatory to the honour of the Committee and the members? And the reply of Shri Tata was, of course, I thought I had done so, I unconditionally withdrew them and I unconditionally apologised for them. Undoubtedly so, in my ignorance purely as a citizen and a businessman, I did not realise that these words could be interpreted as an attack on the Parliament and I withdraw them.

At the end of the evidence Shri Tata again repeated 'If I used any words derogatory to Parliament, or its Committee, of course, I unconditionally apologise'.

- (ii) "While what has been quoted above who reflect the urge of Shri Tata to sincerely uphold the dignity of Parliament, its Committee and the Members, it cannot be overlooked that his evidence at of places bristles with slight contradictions. The Committee feel that his evidence should be read and construed as a whole rather than portions being torn out of context. It is in this context that the Committee think it appropriate to arrive at a proper conclusion after taking all the facts into consideration. The Committee feel that it adds to the dignity of one and all if power in a democratic system is exercised with restraint; the more powerful a body or institution is the greater restraint is called for particularly in exercising its penal jurisdiction."

- (iii) "The Committee are of the view that considering the totality of the facts and circumstances of the case including the apology tendered by Shri J.R.D. Tata during his evidence before the Committee the House would best consult its own dignity by taking no further notice of the matter."

- (iv) "The Committee recommend that no further action be taken by the House in the matter and it may be dropped."

Action taken by the House

6. On 19th August, 1981, Shri Jyotirmoy Bosu moved the following motion in the House:—

"That this House do consider the First Report of the Committee of Privileges presented to the House on the 8th May, 1981."

After some discussion, the motion was negatived by the House.

551

RAJYA SABHA
(1966)

Point of Privilege

Alleged contempt of the House and of a Parliamentary Committee by certain statements made by a Minister in the House and before the Committee

For details of the case please see summary No. 491 at pp. 647-48 ante.

REFLECTIONS ON SPEAKER / CHAIR

552

PROVISIONAL PARLIAMENT
(1950)

Point of privilege

Reflection on the impartiality of the Speaker

Facts of the case and action taken by the House

The *Amrita Bazar Patrika*, Calcutta, in its issue dated the 3rd March, 1950, published an editorial under the heading "M.P.'s Privilege", which cast reflection on the impartiality of the Speaker in connection with a ruling given by him on the 28th February, 1950, disallowing two adjournment motions relating to the externment member, while the Parliament was in session.

The editorial in question read, *inter alia*, as follows:

"Unless the privilege of a member of Parliament has been drastically curtailed under the new Indian Constitution, of which we do not profess expert knowledge. Speaker Mavalankar's ruling on the subject of externment from Delhi of Prof. Shibban Lal Saxena, a sitting member of the Indian Parliament, is open to grave objection.

Mr. Mavalankar's further citation of the Bombay precedent that in that State a member holds prior consultations with the Speaker of the Assembly about the admissibility or otherwise of a proposed adjournment motion is, to say the least a shocking revelation. It is an unheard of practice, reflecting on the neutrality of the Chair comparable to a public prosecutor holding prior consultation with the Judge before instituting a case. Such parliamentary outrages, so far as our knowledge goes, have not been perpetrated elsewhere. Mr. Mavalankar, who was the Speaker of Bombay's Upper House before he became President of the Indian Legislative Assembly, spoke from his personal knowledge. And if the practice is still being continued in Bombay, it is up to the members of that State Assembly to immediately see that it is discontinued, not to speak of its adoption in the Indian Parliament as suggested by Speaker Mavalankar."

2. Under the directions of the Speaker, the attention of the representative of the *Amrita Bazar Patrika* in the Press Gallery of Parliament was drawn to the editorial which cast reflection on the impartiality of the Speaker. The representative of the *Amrita Bazar Patrika* promised to write to his Editor on the subject.

3. The Editor of the *Amrita Bazar Patrika*, in his letter dated the 21st March, 1950, addressed to the Speaker stated *inter alia* as follows:—

".... I assure you no such reflection was meant, or could be meant, by the article in question. The wording of some comments. I recognise with regret, was unnecessarily strong;... I am very sorry the article was not more moderate in tone."

Speaker was, however, not satisfied with this expression of regret and suggested to the Editor of the *Amrita Bazar Patrika* the advisability of correcting in the next issue of his paper the misrepresentation "as a matter of journalistic propriety and truthfulness."

The correction was accordingly published in the *Amrita Bazar Patrika* dated the 29th March, 1950, under the heading "By the Way", which *inter alia* read as follows:—

"....we regretfully discover now, we were unfair in our judgment over the ruling of the Speaker of Parliament, Shri Mavalankar. We consider it our duty to correct ourselves in so far as it may tend to reflect on the Speaker's judgment, now that fasting episode is over and Prof. Saxena's full right of membership of Parliament restored."

553

PARLIAMENT OF INDIA
(1951)

Point of Privilege

Casting reflections on the Chair's impartiality

Facts of the case and ruling by the Speaker

On the 20th September, 1951, Shri Amolakh Chand a member, drew the attention of the House to a cartoon which appeared in the

Indian News Chronicle dated the 20th September, 1951, under the caption "Putting the Clock Back". The member alleged that the cartoon had depicted the Deputy Speaker and certain other members as obstructing the progress of the Hindu Code and also suggested that the Deputy Speaker who was discharging the functions of the Speaker in the latter's absence, and who was alleged to be opposed to the Bill, was responsible for the delay.

2. The Deputy Speaker (Shri M. Ananthasayanam Ayyangar), who was in the Chair, thereupon observed as follows:—

"I have received this cartoon published in the *Indian News Chronicle*. I think it shows my likeness. It is a cartoon of a clock where both the hands are being held up by some of the hon. members who have spoken against this Bill, but underneath the very pendulum is said to be held intact, not moving forward or backward, by a representation of myself. Casting aspersions on the Chair is not only unjustified and undignified but here it is also opposed to the facts.

Therefore, I will look into this matter. It is a very serious matter—it does not matter whosoever may be in the Chair—to cast aspersions on the Chair. The moment the House feels that the person who occupies the Chair for the time being is not doing justice, it knows what to do so far as that person is concerned. But it is not for outsiders to caricature and it is an aspersion on the whole House. I shall look into this matter and then find out what action should be taken".

3. Shri T.N. Singh, another member stated that since it was rather an important matter, it should not be postponed and the House might express its disapproval then and there.

The Deputy Speaker, however, reserved his ruling.

4. On the 21st September, 1951, the Deputy Speaker informed the House that he had received the following letter from Shri Deshbandhu Gupta, Managing Editor of the *Indian News Chronicle*:

"My dear Shri Ananthasayanam Ayyangar.

I am informed that you took exception to the cartoon which appeared in the *Indian News Chronicle* yesterday morning under the caption 'Putting the Clock back'. You are reported to have expressed the view that the cartoon was

calculated to cast aspersions on the Chair. I am very sorry that the cartoon has given cause for offence to you personally or in the capacity of the Deputy Speaker. The cartoonist assures me that it was remotest from his intention to show any disrespect to the Chair or to the House and joins me in assuring you of the desire of the *Indian News Chronicle* to uphold the dignity of both.

The theme of the cartoon as you will kindly see is to illustrate the current situation in Parliament in which in spite of the Chairman's desire to regulate the debate so as to conform as nearly as possible to time schedule some members participating in the debates have endeavoured to prolong the debate and thereby hold the progress of the Bill. I am assured by the cartoonist that in introducing the Deputy Speaker in the cartoon in this role he had no other intention. While regretting that anything in the cartoon should have given cause to you for offence. I hope you will be good enough to accept this explanation and our sincere assurance that there was no intention whatsoever of showing disrespect to the Chair and the House."

5. Shri Radhelal Vyas, a member suggested that the matter might be referred to the Committee of Privileges.

Dr. Deshmukh, another member suggested that Shri Deshbandhu Gupta who was also a Member of the House, should be made to apologise to the House.

Pandit Thakurdas Bhargava another member stated that the newspapers had a right to criticise anybody and everybody but so far as aspersions on the Chair were concerned, he took strong exception to them. He therefore urged the Speaker to take action against the person concerned in case the apology was not considered satisfactory.

6. The Deputy Speaker thereupon observed as follows:—

"So far I am concerned. I am satisfied with what he has written. It is therefore unnecessary to pursue the matter. If, however any hon. member feels that this letter casts aspersion on him. We shall look into it. At present I do not think any aspersion it cast on any hon. member or on the House.

This letter consists of two parts. So far as the Chair is

concerned and the privilege of the House is concerned, the matter may be left to me. I am satisfied with what he has written. If, however, any hon. Member feels that it casts any aspersion on him, he may meet me in my chamber and we shall discuss the matter."

554

LOK SABHA

(1960)

Point of Privilege

Casting aspersions on the Speaker and the House in a printed pamphlet

For details of the case please see summary No. 424 at pp. 626-627 *ante*.

555

LOK SABHA

(1960)

Point of Privilege

Casting aspersions on the Speaker by a news-magazine

Facts of the case and ruling by the Speaker

On the 17th November, 1960, the Speaker (Shri M.A. Ayyangar) informed the House that he had received notice of a question of privilege from Shri A.M. Tariq, a member, regarding the following passage published in the *Time*, a weekly magazine, dated the 26th September, 1960:—

"At session's end, irate Speaker Ayyangar scheduled a 30-minute debate on Air-India International's flip public relations image, then cancelled the debate after friends of the airline management asked him to tone down the attack."

2. He also informed the House that he had subsequently received the following letter, dated the 15th November, 1960, from Mr. James Shepherd, the local correspondent of the *Time*:—

"With very genuine regret I apologize on behalf of *Time Magazine* and myself for the unfortunate mis-statement of fact regarding yourself which appeared in the item entitled, *The Dangers of Wit* published in the September 20, 1960 issue of *Time*. In reporting the references made in the Lok Sabha to the publicity campaign of Air-India International the magazine had said that a debate which had been scheduled was cancelled by you after friends of the air-line

management asked (you) to tone down the attack. This is, of course, a complete error of fact.

Since then the magazine in its issue of November 14, 1960, has published a letter from Mr. A.M. Tariq, M.P. in which he has drawn attention to our error.

In explanation for this error I can only say that the editors of *Time* had been misinformed of the real reason as to why the debate was not held. I do not offer this explanation as an excuse but only as a statement of what happened. It is the policy of *Time* to report events as accurately as is possible and this makes us all the more regretful of the mistake we have made.

Once again permit me to assure you that we are extremely sorry."

In view of the letter of regret, the Speaker added that the House might be pleased to close the matter.

3. The matter was closed in accordance with the general sense of the House.

556

LOK SABHA

(1964)

Point of Privilege

Casting reflections on the Speaker by a newspaper

Facts of the case and ruling by the Speaker

On the 23rd September, 1964, the Speaker (Sardar Hukam Singh) informed the House that he had received two notices of questions of privilege given by Sarvashri Mani Ram Bagri and Hem Barua members, regarding certain allegations made against the Speaker in the *Indian Times* of 20 September, 1964. The newspaper had alleged that the Speaker had built a house and amassed wealth after becoming Deputy Speaker and that he had been writing to some Industrialists to give advertisements to a newspaper, the *Spokesman* started by him. The Speaker observed:—

"If I have done any of these things, certainly I should not be here in the Chair. I want it to be clarified. Therefore, besides the two members, who have given notices, Shri Hem Barua and Shri Bagri, I would request some other leaders of the Opposition also to join in

that group which I will request to see me. I will place all the facts before them.

2. Shri Hem Barua explained that he gave notice of a question of privilege because he did not like that sort of nasty campaign against the Presiding Officer of the Supreme and Sovereign forum of the nation by a newspaper which would undermine the prestige of the Speaker and the House and that the writer, editor, and printer of the newspaper must be brought to book. Shri Barua added that the Speaker need into clarify his position to the members.

3. Shri Bhagwat Jha Azad said that an enquiry by the members would be setting a bad precedent. The newspaper which had made the allegation was neither published regularly nor it had any standing and was of no consequence, and any action by the House would only give undue publicity to the newspaper. It was not a question of privilege and the House should not take note of it.

4. Dr. Ram Manohar Lohia said that the Speaker's position was like that of the President and nothing should be said or written against him and that any enquiry into the allegations would not be a proper thing.

5. The Prime Minister (Shri Lal Bahadur Shastri) said that he agreed with the views expressed by Dr. Lohia. Any mud-slinging against the Speaker affected equally, the Sovereign body and the nation. But it was more important to consider the status of the newspaper which was making the allegations. If it was an important and a regular newspaper, action could be taken against it. In this case the newspaper could be proceeded against under ordinary law, but it was not proper to raise the matter in the House as a question of privilege. The Prime Minister added that if the Speaker desired he might call Shri Barua or any other member interested in the matter to meet him, but as far as he was concerned, the Speaker's statement in the House that the allegations were incorrect was final and a last word.

6. The Speaker said that he was grateful to the House for the sentiments expressed by members and added that he did not take recourse to law courts as it was not worth-while and he thought it fit to take the help of members to look into the matter and then whatever they suggested might be made known to the House.

7. On the 3rd October, 1964, the Speaker, while disallowing the question of privilege, observed *inter alia* as follows:—

"The members from all sides of the House had

expressed affection in abundance for me. The Leader of the House had advised that the matter might be left there without any notice being taken of the publication. I felt overwhelmed with gratitude for the indulgence shown and confidence expressed. But in spite of that I had offered to put the whole case before the leaders of the Opposition groups.

I made a written request to the leaders to come to my Chamber at 2.30 P.M. on the 25th September, 1964, Shri Mani Ram Bagri informed me, the previous evening, that he had an urgent business in his constituency and could not attend. He further told me that Dr. Ram Manohar Lohia would represent him (Shri Bagri) also.

On the day of the meeting, but some time before the meeting, Dr. Lohia informed me that on principle, he was opposed to such a meeting, as he had expressed clearly on the floor of the Lok Sabha and he would not attend. My efforts to persuade him could not succeed and he did not come.

Shri N. G. Ranga, Shri Hiren Mukerjee, Shri U. M. Trivedi, Shri Frank Anthony and Shri Hem Barua were kind enough to assemble in my Chamber. I had brought all records with me and began to explain my position. But all of them unanimously rejected my offer and refused to look into the papers, though we had cursory talks over some issues.

Today we are adjourning *sine die*. The notices had been kept in abeyance. Even if it be indirectly, the conduct of the Speaker is sure to be discussed if the privilege motions are admitted. Therefore this cannot be done. The discussion can only take place when a direct motion for the removal of the Speaker is there. Hence, I disallow these two motions.

In the end, again, I must reiterate that I have no words to express my feelings and deep sense of gratitude to all members for the confidence reposed in me and the indulgence shown to me since I took over office and more particularly on the day these notices were tabled here."

557

LOK SABHA

(1966)

Point of privilege

Casting reflections upon the Speaker and members of a Parliamentary Committee

For details of the case please see summary No. 429 at pp. 586—88 ante.

558

LOK SABHA

(1965)

Point of privilege

Attributing mala fides to the Speaker in a Writ Petition filed before High Court by a member

For details of the case please see summary No. 109 at pp. 207—211 ante.

559

LOK SABHA

(1966)

Point of privilege

Casting reflections on the Speaker by an outsider

Facts of the case and reference to the Committee of Privilege

On the 18th August, 1966, Shri Madhu Limaye, a member, raised a question of privilege against one person styling himself as Colonel Amrik Singh alias Shri K.S. Sahi with regard to a letter, dated the 4th August, 1966, written by him to the Speaker, Lok Sabha which mentioned of a document alleged to have been signed by Shri Jit Paul, partner of the firm 'Amin Chand Pyarelal' showing an entry of payment of a sum of rupees forty thousand against the name of Sardar Hukam Singh, Speaker, Lok Sabha. In his letter addressed to the Speaker, Col. Amrik Singh *inter alia* stated as follows:—

"A vital document submitted on record with statements u/s 164 Cr. P.C., shows details of bribe money paid to several persons, signed by the said Shri Paul, and a sum of Rs. 40,000 is shown against your name. The existence of these documents has been admitted by the Government before the High Court in proceedings relating to the connected cases (Cr. Writ. No. 18-D/65).

...in order to confirm what I have stated you have only to see and read the documents admitted by Government in Cr. Writ 18-D/1965 before His Lordship Mr. Justice S.K. Kapur of the Punjab High Court."

2. While raising the matter, Shri Limaye urged that Col. Amrik Singh should be asked to produce evidence in support of his allegation about the existence of the document pertaining to Shri Jit Paul, and in case of his failure to do so, he should be severely punished. But if it was proved that such a document existed, then Jit Paul should be punished for making such a serious allegations against the Speaker.

3. After some discussion, the matter was referred to the Committee of Privileges.

Findings and recommendations of the Committee

4. The Committee of Privileges, after examining Col. Amrik Singh in person, in their Eleventh Report, presented to the House on the 30th November, 1966, reported *inter alia* as follows:—

(i) "Colonel Amrik Singh, in his letter dated the 4th August, 1966 addressed to the Speaker, Lok Sabha, had stated that the existence of the document signed by Shri Jit Paul and showing a sum of Rs. 40,000 against the name of the Speaker, Lok Sabha, had been admitted by the Government before Mr. Justice S.K. Kapur of the Punjab High Court in Cr. Writ Petition No. 18-D/1965."

(ii) "The Committee, therefore, deputed Sarvashri Frank Anthony and V.C. Parashar, Advocates and members of the Committee, to go personally to the Circuit Bench of the Punjab High Court at New Delhi and inspect the records of the Cr. Writ Petition No. 18-D/1965 and all other documents connected therewith, so as to find out whether the relevant document mentioned by Col. Amrik Singh in his letter dated the 4th August, 1966 addressed to the Speaker, Lok Sabha, existed. Sarvashri Frank Anthony and V.C. Parashar, accordingly, went to the Circuit Bench of the Punjab High Court at New Delhi on the 22nd August, 1966 and examined the records of the Cr. Writ Petition No. 18-D/1965. Thereafter, certified copies of the relevant records in that case (*viz.* copy of Index, Memorandum of Parties, Writ Petition, Affidavit of Petitioner, Annexure, Government's reply dated the 26th February,

1965, and order of Mr. Justice S.K. Kapur dated the 26th July, 1965) were also obtained by the Committee from the Registrar of the Circuit Bench of the Punjab High Court at New Delhi."

- (iii) "The Committee, however, could not find any mention of the document in question either in the Government's reply dated the 26th February, 1965 to Col. Amrik Singh's Cr. Writ Petition No. 18-D/65 or in the order of Mr. Justice S. K. Kapur dated the 26th July 1965 on the said Petition."
 - (iv) "The Committee find that the statement made by Col. Amrik Singh in his letter dated the 4th August, 1966 addressed to the Speaker, Lok Sabha, that the existence of the document in question had been admitted by the Government before Mr. Justice S. K. Kapur of the Punjab High Court in Cr. Writ Petition No. 18-D/1965, is not correct. No such document is even mentioned either in the Government's reply or in Mr. Justice S. K. Kapur's order."
 - (v) "Since the document in question was not mentioned in the records of the Cr. Writ Petition No. 18-D/65 as stated by Col. Amrik Singh in person about the existence of the document the Committee accordingly called and examined Col. Amrik Singh twice on the 1st September and 4th October, 1965."
 - (vi) "On the 1st September, 1966, when the Committee questioned Col. Amrik Singh about the existence of the document in question, he deposed that he had filed the document in question along with some other documents in some Court at Ambala in a case against him. He said that he had already filed applications in Courts at Ambala and Delhi applying for the return or recovery of the documents, that the District Magistrate at Ambala had returned his application stating that the documents were not traceable.
- The Committee, thereupon directed Col. Amrik Singh to furnish by the 20th September, 1965, the document in question or a certified copy thereof, certified copies of the applications made by him to the courts for the return or recovery of the documents and the orders of the Courts concerned on his applications certified copy of the petition or application made by him when the document in question was filed by him in the Court and a certified copy of the Order

Sheet or the original thereof in that case (Case No. 3/43 State vs. Amrik Singh, as given the Col. Amrik Singh). He was also directed to appear again before the Committee on the 4th October, 1966."

- (vii) Non of the above-mentioned documents were, however, produced by Col. Amrik Singh in spite of the clear directions of the Committee.
- When Col. Amrik Singh again appeared before the Committee on the 4th October, 1966, he alleged that the District and Sessions Judge, Delhi had given a finding to the effect that the records in Col. Amrik Singh's case (including the alleged document signed by Shri Jit Paul containing an entry of payment of Rs. 40,000 against the name of Sardar Hukam Singh, Speaker, Lok Sabha) 'have been tampered with and certain vital documents have been removed'.
- The Committee, thereupon, directed Col. Amrik Singh to submit the documents, asked for by the Committee earlier, together with a certified copy of the alleged findings of the concerned District and Sessions Judge, Delhi by the 31st October, 1966, at the latest."
- (viii) "Col. Amrik Singh, however, did not produce any document asked by the Committee. On the 31st October, 1966, he simply sent an 'affidavit' regarding the applications which, he stated, he had filed in certain courts for certified copies of some documents."
 - (ix) "The Committee observe that Col. Amrik Singh has, in spite of the ample opportunity given to him by the Committee, failed to furnish either the alleged document (stated to be signed by Shri Jit Paul) or a certified copy thereof. He has also failed to produce any of the other documents asked for by the Committee on the 1st September and 4th October, 1966."
 - (x) "The Committee consider that it is futile to pursue the matter any further with Col. Amrik Singh for the production of the document in question or a certified copy thereof. He has not submitted even certified copies of the applications which he stated he had made to the Courts from time to time for the return of the documents and the orders of the Courts thereon."
 - (xi) "The Committee have, therefore, reached the conclusion that Col. Amrik Singh is unable to substantiate his allegation that the relevant

document referred to in his letter dated the 4th August, 1966, stated to be signed by Shri Jit Paul and containing an alleged entry of payment of sum of Rs. 40,000 against the name of Sardar Hukam Singh, Speaker, Lok Sabha was in existence or the same was even filed in the Courts."

- (xii) "The Committee are of the opinion that the conduct of Col. Amrik Singh in writing a letter to the Speaker, Lok Sabha, alleging the existence of a document of this nature, which he is unable to substantiate, is very reprehensible and is a grave affront against the honour and dignity of the office of the Speaker and amounts to a gross breach of privilege and contempt of the House. This has been further aggravated by him by approaching a member of Parliament. Shri Madhu Limaye, and handing over to him a copy of his letter addressed to the Speaker, Lok Sabha. The aforesaid conduct of Col. Amrik Singh *alias* K.S. Sahi is most condemnable and deserves severest reprimand."
- (xiii) "The Committee are, however, of the view that the process of Parliamentary investigation should not be used in a way which would give importance to irresponsible or reckless statements or to persons of no consequence making such statements. The Committee feel that it would be inconsistent with the dignity of the House to give undue importance to a person of the antecedents of Col. Amrik Singh by pursuing the matter any further."
- (xiv) "The Committee are of the opinion that the House would best consult its own dignity by taking no further notice of the matter. The Committee accordingly recommend that no further action be taken by the House in the matter."
- (xv) "The Committee, however, feel that members of Parliament should be very discreet in entertaining and raising such matters in the House and unless they are genuinely satisfied about the authenticity of the information as well as the antecedents of the person giving that information, they should not seek to raise those matters in the House based on such reckless allegations."

Action taken by the House

5. On the 2nd December, 1966, the House adopted the Report of the Committee.

560

LOK SABHA

(1966)

Point of privilege

Casting reflections on the Speaker by a member

Facts of the case and reference to the Committee of Privileges

On the 24th August, 1966, after the Speaker (Sardar Hukam Singh) had withheld his consent to the raising of a question of privilege against the Minister of Home Affairs (Shri G.L. Nanda) for an alleged misleading statement made by him in the House denying a newsreport published in the *Statesman*, dated the 10th August, 1966 regarding the activities of the Left Communist Party, Shri Madhu Limaye, a member made the following remarks:—

"For this reason, Mr. Speaker, I ask you today to resign from the membership of the Congress Party. So long as you do not leave the Congress Party, the dignity and decorum of this House cannot be maintained."

2. The Speaker, thereupon, observed:—

"These are reflections against the Speaker. I will refer this matter to the Committee of Privileges that they might consider it. That is a clear breach of privilege. There is a reflection against the Speaker."

When some members raised a point of order regarding the reference of the matter to the Committee of Privileges, the Speaker said that he would consider it.

3. On the 25th August, 1966, the Speaker referred to the remarks made by Shri Madhu Limaye in the House on 24 August, 1966, and observed that Shri Madhu Limaye had made those remarks after he (Speaker) had given a ruling which meant that the ruling given by him was partial and that he would not do justice as long as he was a member of the Congress Party. The Speaker added that although he was not a member of the Congress Party, the fact whether he was a member of the Congress Party or not, was not relevant, as the remarks of Shri Limaye attributed partiality to the Speaker and thus cast reflections on the Speaker.

4. Shri Madhu Limaye then said that if the Speaker was not a member of the Congress Party, he would withdraw his remarks.

5. After some discussion, the Speaker observed:—

'Now the question which was raised by Mr. Kapur and then again by Mr. Limaye that he withdraws what he said, comes. I do not know what that would mean. It was only a reflection on the House and, therefore, if the House deems it sufficient I have no objection I have no particular malice.

But there is one advice that I would give; if he, in specific terms says that he regrets it, then it might be excused."

6. Shri Madhu Limaye, however, said that he had no regrets but that he had withdrawn his remarks unconditionally.

7. The Speaker, thereupon, observed that in that case the matter stood referred to the Committee of Privileges as he had already ruled.

Findings and recommendations of the Committee

8. The Committee of Privileges, after examining Shri Madhu Limaye in person and after considering his written statement, in their Tenth Report presented to the House on the 2nd November, 1966, reported *inter alia* as follows:—

- (i) "On the 6th September, 1966, Shri Madhu Limaye made the following statement before the Committee explaining that he had no intention of casting any reflection on the Speaker or attributing partiality to him in his rulings:—

'In raising the demand that I did that day, I had no intention of casting any reflection or aspersion on the Speaker. I also did not question his *bona fides*; nor did I intend to convey that any of his rulings were tainted by partiality. I was merely raising a theoretical issue and I would like to state that I had been agitating this for a pretty long time and it had nothing to do with the discussions or ruling given that day. If it has caused any misunderstanding. I would like to clear it. I would also like the Committee to convey to the Hon. Speaker my highest regards for him and his office'."

- (ii) "The Committee are of the opinion that in view of the above statement of Shri Madhu Limaye, no further action be taken in the matter."
- (iii) "The Committee recommend that no further action be taken by the House in the matter."

Action taken by the House

9. No further action was taken by the House in the matter.

561
LOK SABHA
(1966)

Point of privilege

Alleged casting of aspersions on Lok Sabha, its members and the Speaker by a newspaper

For details of the case please see summary No. 434 at pp. 593-946 *ante*.

562
LOK SABHA
(1969)

Point of privilege

Misrepresentation of a member's speech and casting reflections on the Chair by a newspaper

For details of the case please see summary No. 297 at p. 454 *ante*.

563
LOK SABHA
(1969)

Point of privilege

Circulation to Press of a distorted summary of a member's speech in the House casting reflections on Deputy Speaker.

Facts of the case and action taken by the House

On the 1st August, 1969, Shri S.M. Banerjee, a member, raised a question of privilege against Shri A.P. Jain, Executive Secretary of the Swatantra Parliamentary Party for circulating to the Press a summary of the speech of Shri M.R. Masani, another member, delivered by him in the House on the 25th July, 1969, and quoted in an article, entitled, "The Week in Parliament" published in the *Hindustan Times*, dated the 27th July, 1969, which misreported Shri Masani's speech and cast reflections on the Deputy Speaker. The portion of the article taken objection to read as follows:

"Opposing the (Bank) Nationalisation Bill, Mr. Masani said that the Deputy Speaker had allowed himself to be used by the Prime Minister in presenting the Supreme Court with the accomplished fact of a Bill."

2. The Deputy Speaker (Shri R.K. Khadilkar) held over further consideration of the matter.

3. On the 5th August, 1969 the Deputy Speaker

informed the House that he had received the following letter from Shri A.P. Jain, Executive Secretary of the Swatantra Parliamentary Party:—

"I have looked into the matter referred to in your letter No. 17/43/CI/69, dated 1st August, 1969 addressed to Prof. Ranga and would like to explain the circumstances in regard to this development.

A Press summary of Mr. M.R. Masani's speech regarding Bank Nationalisation delivered by him in the Lok Sabha on the 25th July, was prepared from the preliminary notes available to our office. Copies were circulated to the press soon after the speech was actually delivered on the floor of the House with a view to being of service to the press.

Two errors were inadvertently committed by the Office:

- (i) We forgot to mention on the top of the copies 'subject to departure' as is likely to happen in case of extempore speeches such as this one.
- (ii) The need for deleting a few words which had not actually formed part of the actual speech was overlooked because of haste and did not come to our notice.

The departure in the summary from the actual text of the speech was not intentional and there was no desire whatsoever to cast any aspersion on the Hon'ble Deputy Speaker or the privileges of the Lok Sabha.

I tender my unqualified apology for this lapse and request you kindly to convey this to the Hon'ble Deputy Speaker and to the House."

4. The Deputy Speaker added that he had also received the following letter from Shri N.G. Ranga, Leader of the Swatantra Parliamentary Party:—

"Dear Sir, I received your letter No. 17/43/CI/69, dated the 1st August, 1969 regarding notice of question of privilege and forward herewith a letter I have received from Mr. A.P. Jain, Executive Secretary of the Swatantra Party in Parliament, in which he has explained the circumstances and has tendered an unqualified apology to the Hon'ble Deputy Speaker and the House.

I trust that the amends which are being made in good faith will be accepted by the Hon'ble House."

The Deputy Speaker then observed:—

The party has tendered its apology and amends in good faith. Normally, we do not pursue such cases any further and I do not want to make any departure on this occasion. Moreover, the whole thing has been replied to by the leader of the Swatantra Party.....After amends have been made by the party, I close this matter. This matter is closed."

The House agreed and the matter was closed.

564
LOK SABHA
(1971)

Point of privilege

Alleged reflections on the Deputy Speaker by a newspaper

Facts of the case and reference to the Committee of Privileges

On the 23rd June, 1971, Shri Era Sezhiyan, a member, raised a question of privilege against the Editor, Printer and Publisher of the *U. Kyrwoh ka Rilum a Khasi* Language news weekly of Shillong, for publishing in its issue dated the 12th June, 1971, the following news item:—

"Rs. 750/- per month for refugees Chairman. It is learnt that Mr. G.G. Swell has been appointed Chairman of Bangladesh Refugees on a salary of Rs. 750/- per month. Friends, how do you feel about it? It is because of this that the A.P.H.L.C.; world is now quiet? This is the real patriot, is he not?"

Shri Era Sezhiyan contended that it was a false and defamatory imputation and cast a reflection on the office of the Deputy Speaker of Lok Sabha and brought it in disrepute and therefore, constituted a breach of privilege and contempt of the House.

2. After some discussion the Speaker (Dr. G.S. Dhillon) observed as follows:—

"I will refer this to the Editor of the paper. After I receive the reply, I will consult Mr. Sezhiyan and the Deputy Speaker. If they are satisfied, I will drop it. Otherwise this will go to the Privileges Committee."

3. On the 5th August, 1971, the Speaker informed the House *inter alia* as follows:—

"In reply to a letter sent to the Editor of the said newspaper, Shri U.L.L.D. Basan, describing himself as the Ex-editor of the said newspaper,

stated that he had resigned as the Editor, Printer and Publisher of the paper since 22nd June, 1971, due to ill-health. He added *inter alia* as follows:—

....the news-item was really a letter to the Editor from C.M. Lyngdoh dated 10th June, 1971 and the letter was published as a news item instead of a letter to the Editor....

....It is not my intention to ridicule or speak contemptuously against the dignity of the House of the People or of the Office of the Deputy Speaker. I am very sorry, I caused pains to the Hon'ble member of the House of the People.

I am sorry also I hurt the feelings of Prof. G.G. Swell and apologise for the same as well as the delay in sending my reply.

In the above circumstances, I fervently appeal and pray that the hon. Speaker may be pleased to drop the matter and for which act to kindness, I shall remain ever grateful."

A letter was addressed to Shri Basan on 20th July, 1971 to have his contradiction and regret in respect of the impugned news item published prominently in the next issue of the *U Kyrwoh ka Rilum* and to send a copy thereof for my information. Another letter was addressed to Shri C.M. Lyngdoh, the alleged author of the impugned news letter. C/o Shri Basan, asking him to submit by 31st July, 1971, for my consideration what he might have to say in the matter.

No reply, has however, so far been received from either of them.

In the circumstances, if the House agrees, the matter may be referred to the Committee of Privileges."

The House agreed and the matter was referred to the Committee of Privileges.

Findings and recommendations of the Committee

4. The Committee of Privileges in their second Report, presented to the House on the 6th August, 1973, reported *inter alia* as follows:—

(i) "The Committee decided to give an opportunity to Shri U.L.L.D. Basan, ex-Editor of the *U Kyrwoh Ka Rilum*, Shillong, and Shri C.M. Lyngdoh, the alleged author of the impugned news letter to appear before the Committee to have their say in the matter."

(ii) "Since Shri U.L.L.D. Basan, had in his letter, dated the 13th July, 1971, stated *inter alia* that

he had resigned as the Editor, Printer and Publisher of the *U Kyrwoh ka Rilum*, from the 22nd June, 1971 on account of his ill-health, an enquiry was made from the Government of Meghalaya. The Government of Meghalaya in their reply dated the 7th October, 1971, stated that one Shri S.R. Moksha, member, District Council, Jaiaw Pdeng, Shillong, had taken over as the new Editor, Printer and Publisher of the *U Kyrwoh Ka Rilum* and that approximately one thousand copies only of the said newspaper were circulated which indicated a below average popularity of that weekly newspaper."

(iii) "Shri U.L.L.D. Basan, in his letter dated the 8th September, 1971, stated that in spite of his best efforts he had not been able to trace Shri C.M. Lyngdoh and that he himself was unable to appear before the Committee due to his poor health and lack of financial resources to come to Delhi. He had further stated that he had published prominently his earlier letter, dated the 13th July, 1971, containing his contradiction and regret, in another Khasi language newspaper *ka Pyrta U Riewlum* dated the 25th July, 1971. He requested the Committee to accept his apology."

(iv) "Subsequently, the Civil Surgeon, Shillong, who examined Shri U.L.L.D. Basan at the instance of the Committee stated in his medical certificate that Shri Basan could travel to Delhi by Railway journey only with difficulty and with escort and that even if Shri Basan travelled by Air, an escort would be advisable.

The Committee felt that in view of Shri Basan's poor health, it was not necessary to enforce his attendance before the Committee."

(v) "The Committee considered a suggestion that as Shri U.L.L.D. Basan had not got his letter, dated the 13th July, 1971, containing his apology, published in the *U Kyrwoh Ka Rilum* and as he was no more its Editor, Printer and Publisher, the present Editor, of *U Kyrwoh Ka Rilum* might be asked to publish Shri U.L.L.D. Basan's said letter of apology in that newspaper.

The Committee, however, observed that the new Editor, Printer and Publisher of the *U Kyrwoh Ka Rilum* cannot be held responsible for the publication of the news

report by the former Editor, Printer and Publisher, Shri U.L.L.D. Basan, and that the new Editor, Printer and Publisher cannot be compelled to publish in his newspaper the letter of apology of Shri U.L.L.D. Basan in respect of the impugned news report. The opinion of the Ministry of Law and Justice on the matter is also the same."

- (vi) "As the letter of apology, dated the 13th July, 1971, written by Shri U.L.L.D. Basan, to the Speaker, Lok Sabha, was published in the *Ka Pysta U Rewlum*, Khasi newspaper of Shillong, dated the 25th July, 1971, without Shri Basan's signature underneath (although his name was mentioned in the caption and introduction thereto), the Committee desired Shri Basan to republish his aforesaid letter in the *U Kyrwoh Ka Rilum* or any other newspaper of Shillong under his signature.

Shri U.L.L.D. Basan in his letter dated the 21st March, 1973, to the Committee stated *inter alia* that he had tried his best to get a press for printing all relevant papers in connection with the case, but without success."

- (vii) "The Committee observe that Shri U.L.L.D. Basan has apologised for publishing the impugned news-item in his newspaper and has also published his letter of apology in a Khasi newspaper *Ka Party U Riewlum* of Shillong. The Committee also note that Shri Basan has made efforts to get a press for printing the relevant papers, including his letter of apology, but his efforts have not been successful."
- (viii) "Taking into account all the circumstances of the case and also the apology tendered by Shri U.L.L.D. Basan, the Committee feel that no further action need be taken in the matter."
- (ix) "The Committee recommend that the matter be dropped."

Action taken by the House

5. No further action was taken by the House in the matter.

565
LOK SABHA
(1972)

Point of Privilege

Reflections on Deputy Speaker in a telegram Addressed to him regarding conduct of proceedings by him in the House.

Facts of the case and action taken by the House

On the 30th August, 1972, Shri R.N. Sharma, a member, sought to raise a question of privilege against Shri Mani Ram Bagri, General Secretary, Socialist Party, for casting reflections on the Deputy Speaker (Shri G.G. Swell) in a telegram addressed to the latter in regard to the conduct of proceedings of the House by him. The impugned telegram read as follows:—

"Shri Sitaram Singh and Shri Shiv Shankar Prasad Yadav raised the question of famine and starvation in Rajya Sabha and Lok Sabha respectively. You have acted cowardly by suppressing this issue. Therefore, you are guilty of ignoring Rajya Sabha, Lok Sabha and crores of hungry people. I condemn your this action and at the same time commend the brave persons like Sarvashri Sitaram Singh and Shiv Shankar Prasad Yadav. Do not disallow such questions. This is not your *durbar*. It is the House of the People."

2. During the discussion on the matter, Shri Madhu Dandavate stated that Shri Mani Ram Bagri was not the General Secretary of the Socialist Party but of a dissident group thereof. He also raised the following point of order:—

"If any member of the House receives a telegram and there is no confirmation through a signed letter or through any other agency, whether you would permit the matter to be raised in the form of a privilege motion?"

Thereupon the Speaker (Dr. G.S. Dhillon) ruled as follows:—

"I admitted it because the question of Chair was concerned....Any way for future guidance, I think when such telegrams come, no action can be taken unless they are verified."

3. The Minister of Parliamentary Affairs (Shri Raj Bahadur) stated *inter alia* as follows:—

"....whatever Mr. Mani Ram Bagri's credentials may be.... They have been belied just now by Mr. Dandavate....we might perhaps be giving

too much importance and publicity to him, which he might be yearning for. Although this constitutes clearly a breach of privilege and insult to the House, I would earnestly plead that we should not allow him, if he is the author of it, to succeed in his ambition. I request my friends, Mr. Sharma and Mr. Sathe to reconsider it, whether they would still like to press it in these circumstances, because the objective is clear."

4. Shri G.G. Swell stated *inter alia* as follows:—

".....I would like to make this distinction that there is a difference in functioning in this House as a member of the House and in running the House. I was not functioning as a member of the House; I was functioning as the Speaker of the House at that time, running the affairs of the House. Now we have to consider this very very carefully whether it is open to anybody in this country to speak disparagingly of the running of this House, not of how we function. That is the question to be considered..... I do not want to inject a new political life to Shri Mani Ram Bagri, especially when a friend like Professor Dandavate has just now disputed that he was even the General Secretary of the Socialist Party.

I would request my colleagues not to press this motion. I am quite happy that the House is one with me that the way in which this House runs should not be subject to criticism and condemnation from outside."

5. In view of the feeling expressed in the House Shri R.N. Sharma did not press his question of privilege.

566

LOK SABHA
(1974)

Point of privilege

Misleading news-item concerning Speaker published by a newspaper

For details of the case please see summary No. 309 at page 464 *ante*.

567

LOK SABHA
(1977)

Point of privilege

Alleged defamatory remarks by a member in the House about the Speaker of previous Lok Sabha

Facts of the case and ruling by the Speaker

On the 16th November, 1977, Shri C.M. Stephen a member, gave notice of a question of privilege against Shri Madhu Limaye, another member, for having made alleged defamatory and contemptuous remarks in the House about the Speaker of Fifth Lok Sabha during the course of his speech in the House earlier that day on a question of privilege against Shrimati Indira Gandhi, the former Prime Minister. Shri Limaye had, *inter alia*, stated as under:—

"Since she had a two-third majority, the Speaker was always under the fear of being removed if he acted to uphold the dignity and privileges of the House. The result was that the sanctity of the House...."

2. As directed by the Speaker (Shri K.S. Hegde), the matter was referred to Shri Madhu Limaye for his comments.

3. On the 29th November, 1977, Shri C.M. Stephen sought to raise the matter in the House and enquired about the ruling of the Speaker in the matter. The Speaker informed him that comments from Shri Madhu Limaye were awaited.

4. On the 7th December, 1977, while withholding his consent, the Speaker ruled as follows:—

"I have gone through the English translation of the statement made by Shri Madhu Limaye when his privilege motion against Mrs. Gandhi, the former Prime Minister, was taken up. During the course of his statement, he observed as follows:—

'When Shrimati Indira Gandhi got two-thirds majority, she was continuously working towards the subversion of the procedures and the rights of this House. Not only that, most dangerous thing was that the Prime Minister's Secretariat became all powerful and even started dominating the Lok Sabha Secretariat. Which questions should be accepted for discussion, which should be rejected and which questions should carry incorrect replies—all this was decided in the Prime Minister's Secretariat. Since she had a two-thirds majority, the Speaker was always under the fear of being removed if he acted to uphold the dignity and privileges of the House. The result was that the sanctity of the House (*Interruptions*) the people removed *Interruptions*'.

The inference drawn by Shri Madhu Limaye may or may not be correct. But I am of the opinion

that these observations do not amount to a breach of privilege either of the House or of the former Speaker. In this view, it is not necessary for me to decide the question whether a former Speaker has any privilege.

Hence, the consent asked for under Rule 222 is not granted."

568

LOK SABHA

(1978)

Point of privilege

Reflections on the Speaker by a member in the House

Facts of the case and action taken by the House

On the 8th March, 1978 during the Question Hour, when Shri Mohd. Shafi Qureshi a member was not permitted by the Speaker (Shri K.S. Hegde) to put more supplementaries to Starred Question and the Speaker passed on the next Question. Shri Qureshi, addressing the Speaker, remarked:—

"You have ruined this Parliament. You are not fit to be in this Chair... You are partial."

The Speaker thereupon asked Shri Qureshi either to withdraw the expression or the matter would be referred to the Committee of Privileges. Shri Qureshi, however, refused to withdraw the impugned remarks made by him against the Speaker.

2. Immediately thereafter, Shri Kanwar Lal Gupta, another member, moved the following motion, which was adopted by the House:—

"That the remarks made by Mr. Qureshi be referred to the Privileges Committee."

3. As there were noisy scenes in the House, the Prime Minister (Shri Morarji Desai) intervened and stated *inter alia*, as follows:—

"...if the members then say that you are unfit to be a Speaker, that you have ruined... Is it also right that hon. members should come here near The Speaker and show all these things. I do not know under what rule that is justified..... I do not know what will happen... We have pledged ourselves to see that the Speaker is helped in seeing that the work goes on smoothly. Even if we have any dissatisfaction with the Speaker it would be wrong for us, totally wrong for us, to disrespect the Speaker in any way by words or by gestures... But here to disrespect the Speaker, I consider, is criminal. Let us not do

it. It is a crime against democracy, if I may say so. It is not a right thing..."

4. Shri C. Subramaniam, another member stated as under:—

"I would like to give this assurance that it will not be the intention or the attempt of the Opposition to disrespect the Speaker in any way. If any such thing has happened or if any such impression has been created, I would like to tender an apology on behalf of the Opposition. But certainly if a certain matter, in which we are interested, is bypassed we have to bring it to your notice in the proper manner possible. If there has been any improper manner adopted by rushing there, certainly it should not have been done, but it was because of the passions roused by the other side (*Interruptions*). We are prepared to cooperate fully to maintain the dignity of the Speaker and to see that proceedings are conducted in an orderly manner."

5. Shri C.M. Stephen, another member, submitted that in view of what Shri Subramaniam had stated the motion for reference of the matter to the Committee of Privileges might be dropped.

6. The Speaker then observed as follows:—

"But he has not withdrawn the remark... He has to withdraw it; on his behalf another cannot withdraw... this is not the first time. Every day Mr. Qureshi has been making some aspersion, whether right or wrong."

7. The Prime Minister intervening again in the discussion, stated *inter alia* as follows:—

"... I do not see why they should not withdraw the remarks which are absolutely wrong. I do not know what kind of prestige it is. But if they are not withdrawn then I cannot say anything. Those words have to be withdrawn. How can it remain on the record like that?"

At that stage, the Speaker adjourned the House for ten minutes.

8. When the House re-assembled after ten minutes, Shri Mohd. Shafi Qureshi, while withdrawing his remarks, stated as under:—

"Sir, I am obliged to the Leader of the House and to my own leader Shri Subramaniam and other colleagues... Shri Krishna Kant and Shri Stephen—who have made an appeal and said that whatever remarks have been made. I am

very sorry for what has happened in this House. I meant no disrespect to the Chair and if any of my utterances have given such an impression I have no hesitation in withdrawing it."

9. The Prime Minister then appealed that in view of the withdrawal of the impugned remarks by Shri Mohd. Shafi Qureshi the privilege motion might be dropped. The House agreed and the matter was dropped.

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LOK SABHA

(1980)

Point of privilege

Casting reflections on the impartiality of the Speaker by a member in a Press statement

Facts of the case and ruling by the Speaker

On 27th March, 1980 Shri Eduardo Faleiro, a member, gave notice of a question of privilege against Sarvashri George Fernandes, Ram Vilas Paswan, Samar Mukherjee, Jyotirmoy Bosu, Madhu Dandavate, Indrajit Gupta and Chitta Basu, members, for casting aspersions on the Speaker as reported in newspapers. While referring to the relevant news items which appeared in the *Hindustan*

*Times*¹ and the *Patriot*² dated 27th March, 1980 under the captions "Opposition says Speaker partial" and "Opposition protest to Speaker" respectively, Shri Faleiro stated in his notice, *inter alia*, as follows:—

"...Opposition leaders yesterday represented to the Deputy Speaker their strong objection to the manner in which the Opposition was being treated in Parliament. It is further reported that the said leaders and M.Ps. felt that the *Speaker was not functioning in an impartial manner* as he had disallowed adjournment motions pertaining to matters of urgent public importance.

Not satisfied with casting serious aspersions on the Speaker, the above mentioned M.Ps. made the same public by repeating them to the Press."

2. The concerned members, the Editor of the *Patriot* and the *Hindustan Times*, the Editor and General Manager, United News of India and the General Manager, Press Trust of India were asked to state what they might have to say in this matter.

3. On 11th June, 1980, the Speaker (Shri Bal Ram Jakhar), informed the House as follows:—

"Shri Eduardo Faleiro had given notice of a question of privilege on 27th March, 1980, against Sarvashri George Fernandes, Ram Vilas

¹The news report published in the *Hindustan Times* read as follows:—

"OPPOSITION SAYS SPEAKER PARTIAL

NEW DELHI, March 26 (UNI)— Opposition leaders today waited upon the Deputy Speaker to express their strong objection to the manner in which the Opposition was being treated in Parliament.

They registered their protest against the rejection of adjournment motions sent by them on the blockade of Assam, murder of a student in Delhi and incidents of atrocities on Harijans.

They felt that the Speaker was not functioning in an impartial manner as he had disallowed adjournment motions pertaining to matters of urgent public importance.

They appealed to the Speaker and the Deputy Speaker to give special treatment to the Opposition and alleged that the ruling party was using its numerical supremacy to suppress the voice of dissent.

Those who called on the Deputy Speaker in the absence of the Speaker were:

Mr. George Fernandes and Mr. Ram Vilas Paswan (Lok Dal), Mr. Samar Mukherjee and Mr. Jyotirmoy Bosu (CPI-M), Prof. Madhu Dandavate (Janata), Mr. Indrajit Gupta (CPI) and Mr. Chitta Basu (Forward Bloc)."

²The news report published in the *Patriot* read as follows:—

"OPPOSITION PROTEST TO SPEAKER

LEADERS of the Opposition in the Lok Sabha on Wednesday conveyed their 'strong protest' to Speaker Balram against rejection of their adjournment motion in the House reports PTI.

The decision to meet the Speaker and convey their strong objection to the Speaker's attitude was taken at a meeting convened by the Lok Dal in the morning.

Besides the Lok Dal leaders, the meeting was attended by the representatives of the Janata Party, CPI, CPM and Forward Bloc.

The Congress U leaders who could not attend the meeting had conveyed his consent to the decisions of the meeting convened by the Lok Dal, Mr. Ram Vilas Paswan, Chief Whip of the Lok Dal told newsmen.

Mr. Paswan said the Speaker had rejected the adjournment motions sent by different leaders on the blockade of Assam murder of a student in Delhi, and atrocities on Scheduled Castes and other weaker sections.

The meeting felt that the Speaker has not been functioning in an impartial manner and he appears to have decided not to admit any adjournment motion pertaining to matters of urgent public importance.

When a delegation went to meet the speaker personally and convey their protest the Speaker was not present in his chamber. So the delegation met Deputy Speaker, G. Lakshmanan and urged to convey their protest to the Speaker, Mr. Paswan said.

Those attending the meeting included Mr. George Fernandes and Mr. Ram Vilas Paswan (Lok Dal), Prof. Samar Mukherjee and Mr. Jyotirmoy Bosu (CPI-M), Prof. Madhu Dandavate (Janata), Mr. Indrajit Gupta (CPI), Mr. Chitta Basu (Forward Bloc.)."

Paswan, Samar Mukherjee, Jyotirmoy Bosu, Madhu Dandvate, Indrajit Gupta and Chitta Basu, M.Ps. for casting aspersion on the Speaker, as reported in the *Hindustan Times* and the *Patriot* of 27th March, 1980.

When Shri Edurado Faleiro sought to raise the matter in the House. I had observed that as per established practice, the members concerned had been requested, in the first instance, to state what they might have to say on the matter for my consideration.

The members concerned, the Editors of the *Hindustan Times* and the *Patriot* as also the UNI and the PTI were asked to state what they might have to say in the matter.

The Editor and General Manager of UNI stated in his reply that the impugned news item circulated by UNI was based on a signed statement issued by Shri Ram Vilas Paswan. The General Manager of the PTI in his reply also stated that the impugned news item circulated by them was based on a Press briefing by Shri Ram Vilas Paswan.

Shri Ram Vilas Paswan has now tendered unqualified apology for his statement reported in the Press.

The unqualified apology tendered by Shri Ram Vilas Paswan may be accepted and the matter may be treated as closed."

The matter was, thereafter, closed.

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LOK SABHA
(1981)

Point of privilege

Comments by a journalist in an article published in a newspaper on a ruling given by the Speaker

Facts of the case and ruling by the Speaker

On 1st December, 1981, Dr. Subramaniam Swamy, a member, gave notice of a question of privilege against Shri Inderjit of India News and Feature Alliance for making *inter alia*, the following comments in an article published in the *Tribune* dated 1st December, 1981, on the ruling given by the Speaker (Dr. Balram Jakhar) on the 28th August, 1981, regarding censoring of mail and tapping of telephones of members:—

"In retrospect, it was neither right nor proper for the Chairman or the Speaker to have relied on the ruling of the Madras Speaker and quoted the

Australian precedent without reference to its background and the circumstances obtaining at the time. Leading Parliamentary experts in Canberra were astounded that the Australian war-time precedent had been quoted in the peace-time India of today. The Post Office Act of 1898 was designed to serve the colonial masters. It should be annulled. But, for the moment there is need for the Speaker and the Chairman to reconsider their rulings based unfortunately on a war time precedent. A Special Committee should be set up by Parliament to consider the entire question of censorship during peace time.... Let the whole matter be examined afresh in the best interest of truth and our developing democracy."

2. On 19th February, 1982, the Speaker observed as follows:

"Dr. Subramaniam Swamy had given notice of a breach of privilege against Shri Inderjit, a well known journalist, who had written two articles in which he had raised the pertinent point whether the original report given by the Committee of Privileges of Australia had, in fact, been gone into before the ruling had been given by the Chair. Dr. Subramaniam Swamy had also met me subsequently in the Chamber and then raised the subject in the House in December last and I had told him that we were making earnest efforts to get a copy of the Report of the Privileges Committee from Australia.

I have now got a copy of the Report and have gone through it carefully with a view to see if the previous ruling given by me required any material modification. I have come to the conclusion that the ruling need not be modified. It, in fact, has already served the purpose of drawing pointed attention to the omnibus provisions for censorship at all times as existing in the Indian Post Office Act, 1998. I find that members have already taken initiative to table Private Members' Bills to effect amendments to the Indian Post Office Act, 1898 and this would naturally afford an opportunity to the House to go into all aspects of the matter.

May I also take this opportunity of thanking my distinguished friends for underlining the need to consult the original report of the Committee of Privileges of Australia, rather than merely relying on a secondary source?"

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LOK SABHA
(1985)

Point of privilege

Casting of aspersions on the Speaker by a member in the House

Facts of the case and action taken by the House

On 10th December, 1985, Sarvashri V. Kishore Chandra S. Deo and K.P. Unnikrishnan, members, sought to raise the matter of sealing of certain rooms in the Parliament House. These rooms were allotted to parties for being used as party offices and were still being retained by those parties even after their numerical strength in the present Lok Sabha had fallen short of minimum ten as required under the rules for allotment of rooms. While raising the matter, Shri K.P. Unnikrishnan uttered some insinuatory remarks to which umbrage was taken by the Speaker (Dr. Bal Ram Jakhari). On being asked to withdraw the same, Shri Unnikrishnan wanted to know what the insinuation was. The Speaker observed *inter alia* as follows:—

"You said that I have been showing all the discourtesy. I have been showing all the courtesy all the time. I am at your disposal...First you withdraw your insinuation and then I will listen to you... You said that I have been discourteous to you."

Shri K.P. Unnikrishnan then stated as follows:—

"I am not going to withdraw. I am not going to be cowed down...I am sorry, Sir, I cannot comply with your request."

2. The Speaker then observed as follows:—

"I know I have to do certain things as entrusted to me by rules and regulations laid down by you, not by me. I am bound to carry out those things and they might be unsavoury things which are not likeable for some people. I have to do those things because you have entrusted that task to me...In the last one year I have been trying to do that for an amicable solution among all the parties. I am not against any party. If they lose at the polls, that is the business of the people or the luck they have. I cannot make them members, I cannot add to their numbers and I cannot detract from their numbers....For the last so many months—this is the 12th month now—I have had this problem of offices...I have met them not once,

but about twenty times. I have met leaders of all the groups. Everybody wants it. But they have put some rules and I have to act according to that...I think Mr. Unnikrishnan you have been with me so many times regarding this very thing and I have tried to solve this according to the rules but when the things come to a pass I have no option...Either you withdraw your insinuation or withdraw from the House."

Shri Unnikrishnan, thereupon, stated "I regret, I cannot comply with your instructions", and left the House. Some other members also then walked out of the House.

3. The Speaker then observed *inter alia* as follows:

"I have limited number of rooms. We do not allot a room to a party having less than 10 members. It should be made very clear...We will then be bound to allot rooms to Akali Dal, Muslim League, National Conference, Revolutionary Socialist Party, Forward Block also. There are 5 or 6 such parties which have 5-6 members. I cannot give rooms to all of them. I told them not once but on a number of occasions. After that I had no other alternative. Party members were asking me as to why was I not locking the rooms."

4. The Minister of State in the Ministry of Parliamentary Affairs (Shri Ghulam Nabi Azad), thereafter, moved the following motion which was adopted by the House:—

"That Shri K.P. Unnikrishnan, a member of the House, be suspended from the service of the House for today on account of his insulting conduct towards the Chair."

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RAJYA SABHA
(1983)

Point of privilege

Alleged casting of reflections on the Chair by a journalist

Facts of the case and ruling given by the Chairman

On 29th July, 1983 the Chairman (Shri M. Hidayatullah) observed as follows:—

"Shri Vithalbhai M. Patel has given notice of breach of privilege against Shri Kuldip Nayar for his write-up under the heading 'Parliament must be given back its dignity' published in the

weekly magazine 'Sunday' of July 24-30, 1983. Among other things, Shri Kuldip Nayar had made the following observations in that write-up:

'But in India, the Lok Sabha Speaker and the Rajya Sabha Chairman behave as if they have to carry the Government on their shoulders. Both, more loyal than the queen, come to the rescue of the Government whenever it is driven to a corner.'

I am omitting one sentence which is specially directed against the hon. Speaker who can properly look after himself. I do not see why this statement

should worry the hon. Member when it does not worry me. I thank God that he did not endow me with the brand of impartiality which journalists, like the present one, probably profess. I have the brand of impartiality which a person having to decide conflicting claims must have. Mr. Justice A.N. Sen of the Supreme Court is reported to have said recently:

'We have to do justice. We do not have to please Editors'.

I say the same in this context, and having said it. I suggest to the hon. Member to ignore it as I do

REMOVAL OF MEMBER FROM HOUSE/PRECINCTS

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LOK SABHA
(1965)

Point of privilege

Removal of a member from the precincts of the House after the rising of Lok Sabha under orders of Speaker.

Facts of the case and ruling by the Speaker

On the 28th April, 1965, Shri Mani Ram Bagri, a member, sought to raise a question of privilege regarding the alleged forcible removal of Swami Rameshwaranand, another member, from the precincts of the House on the previous day by the Watch & Ward Staff.

2. Disallowing the question of privilege, the Speaker (Sardar Hukam Singh) observed *inter alia* as follows:—

".....I cannot allow any demonstrations etc. within the precincts of the House. I myself had ordered that so long as the House was sitting

Swamiji could sit or move about anywhere within the precincts of the House. But if he wished to stay after one hour of the rising of the House, he had to take my permission. In this case when Swamiji stayed beyond one hour of the rising of the House, he was requested to go out. Swamiji said that he would not go out of his own accord but would prefer to be carried away. I have learnt that Swamiji was not dragged but was taken away by the Staff on shoulders. Therefore, there is no question of breach of privilege in the matter."

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RAJYA SABHA
(1972)

Point of privilege

Eviction of a member from the Parliament House Estate

For details of the case please see summary No. 175 at p. 316 *ante*.

RESCISSION OF RESOLUTION

LOK SABHA
(1970)

Point of privilege

Rescission by the House of a resolution adopted by it earlier regarding punishment to be given by Government to an official for having committed a breach of privilege and contempt of the House.

Facts of the case and reference to the Committee of Privileges

On the 2nd December, 1970, the Lok Sabha, after considering the 12th Report of the Committee of Privileges (Fourth Lok Sabha), adopted the following resolution:—

"That this House having considered the Twelfth Report of the Committee of Privileges presented to the House on the 24th November, 1970. In which Shri S. C. Mukherjee, the then Deputy Iron and Steel Controller has been held to have deliberately misrepresented facts and given false evidence before the Committee on Public Accounts and committed contempt of this House, do resolve that he be summoned before the bar of the House and be reprimanded and the House to further recommend that the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to this House."

2. In pursuance of the above decision of the House on the 2nd December, 1970, Shri S.C. Mukherjee was summoned at the Bar of the House and reprimanded by the Speaker in the name of the House on the 9th December, 1970.

3. On the 3rd December, 1970, a written communication was sent to Ministry of Steel and Heavy Engineering inviting their attention to the following recommendation contained in the resolution adopted by the House on 2 December, 1970, with the request that necessary action in the matter might be taken:—

"...and the House do further recommend that the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to this House."

4. On the 25th April, 1973, Shri Madhu Limaye, M.P. drew the attention of the House to the non-implementation of the aforesaid recommendation contained in the resolution adopted by the House on the 2nd December, 1970.

5. The Minister of Steel and Mines (Shri Mohan Kumaramangalam) stated *inter-alia* as follows:—

"He (Shri S.C. Mukherjee) submitted a Petition to your (Speaker) requesting that his case be reviewed. That Petition was dismissed by you on the 31st December, 1971. On the 1st January, 1972, a hearing (by Commissioner of Departmental Enquiries) took place of the charge against him. In that hearing, he requested that the transcripts of the evidence that had been given by him before the Public Accounts Committee, may be made available to him. I, thereupon, requested you whether these could be made available to him. On the 1st March, 1972, you indicated that it would not be possible to make available to Shri Mukherjee any of the records of this House or any committee of this House, because these matters were final and had been decided here. No outside authority could sit in judgement on what took place in this House. I entirely appreciated that position. But the difficulty then arose as to what were Mr. Mukherjee's rights in relation to the charge framed against him. Hon. members must be aware that under article 311 of the Constitution every Government servant has a right to show cause against the punishment proposed to be inflicted on him and therefore has a right to defend himself and ask for material and cross-examine witnesses. In view of your ruling that these materials could not be made available to him—with which I entirely agree—I was naturally in a dilemma. I could not instruct the disciplinary proceedings against him to continue because the disciplinary proceedings would obviously be invalid if he was not permitted to have all the material with which he could defend himself. I, therefore, also really could not prove the case against him. Thus began a legal conundrum; I spent home time at it and what I thought—at that time as ingenious but now I do not think it is so—was that possibly a charge could be framed against him that in

committing contempt of the House, he had committed misconduct as a Government servant. And, in view of the complications of the matter, we referred it to the Attorney- General. And, on referring it to the Attorney- General for his advice, he advised us and he said that the view taken by the hon. Speaker about the position relating to the records of the House is of course perfectly correct, he was in entire agreement with that position legally, but that so far as the position regarding Shri Mukherjee being proceeded against in relation to what he had done, namely, contempt of the House, is concerned, it would not be possible to proceed on the basis of the disciplinary enquiry, and, therefore, he suggested that the matter may be taken back to the House for the advice of the House in the matter.... Thereupon I requested the leaders of the different opposition parties to meet me on 20 December, 1972. A number of hon. members were present. It was a representative meeting. In the course of that meeting. I put my dilemma quite plainly before the hon. members and they showed a spirit of understanding, and it was then decided that Shri Era Sezhiyan, the Chairman of the Public Accounts Committee, should go into the matter and make his recommendation to the meeting and the meeting will decide what should be done. Shri Sezhiyan thereupon had written a letter to my colleague Shri Raghuramaiah indicating that it would not be proper or possible for him to make a recommendation as Chairman of the Public Accounts Committee, because the matter was dealt with by this House itself. Therefore, we have once again convened a meeting of the leaders of the opposition parties which is to take place, if I am not wrong, on 10 May, 1973, where we hope to come to a final decision in the matter. Hon. members would, I am sure, appreciate that we have been quite assiduous in trying to find a solution to the problem. There are certain obvious difficulties about which the hon. members of the opposition are conscious. We do not want to take decision which would lead, as it were, to a self-defeating decision. That is, Government takes a decision and it so happens that the matter goes to a court and the court sets it aside, and this is what the learned Attorney-General warned us in relation to this matter. Therefore, what the Government has done is perfectly correct and proper and there has been no confusion at all."

6. On the 11th May, 1973, the Minister of Parliamentary Affairs (Shri K. Raghuramaiah)

moved¹ the following motion which was adopted by the House:—

"That this House, having considered the statement made by the Minister of Steel and Mines in the House on the 25th April, 1973, points raised by members thereon, and other relevant facts relating to the implementation of the latter part of the resolution adopted by Lok Sabha on the 2nd December, 1970, namely, 'that the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to this House,' do resolve that the matter be referred to the Committee of Privileges."

"The House to further direct that the Committee report to the House by the 16th August, 1973."

Findings and recommendations of the Committee

7. The Committee of Privileges, in their Sixth Report presented to the House on the 15th November, 1973, reported *inter-alia* as follows:—

(i) "The Committee at their sitting held on the 18th June, 1973, considered the scope of their terms of reference and decided that the only question before the Committee was consideration of the constitutional difficulties in implementing the second part of the resolution adopted by Lok Sabha on the 2nd December, 1970, regarding punishment to be given by Government to Shri S.C. Mukherjee. The Committee were of the view that it was not necessary to examine Shri S.C. Mukherjee in person at this stage as that would amount to reopening the whole case which was neither necessary nor called for in view of the resolution adopted by Lok Sabha on the 2nd December, 1970, adjudging Shri S.C. Mukherjee having committed a breach of privilege and contempt of the House by misleading the Committee on Public Accounts."

(ii) "The Committee noted that Shri S.C.

¹The time for presentation of Report of the Committee was extended by the House up to the last day of first week of the next session on a motion moved on 10 August, 1973.

Mukherjee had already been given a full opportunity to explain his case, both orally and in writing, before the Sub-Committee of the Committee on Public Accounts which had investigated this matter on a reference from the Committee of Privileges. The Committee of Privileges of Fourth Lok Sabha had made the following observations in their Twelfth Report on this case:—

‘While arriving at their conclusions, the Committee observed that full and adequate opportunity had already been given to Sarvashri N.N. Wanchoo and S.C. Mukherjee to explain their position in the matter both orally and in writing, before the Sub-Committee of the Public Accounts Committee which had investigated the matter in detail. The Committee did not, therefore, consider it necessary to ask them to appear before the Committee for further oral examination or to submit any further written statement to the Committee’.

The Committee endorse the above observations.”

(iii) “The Committee therefore, decided to call for a detailed factual note from the Ministry of Steel and Mines stating the steps taken by that Ministry to implement the second part of the resolution adopted by Lok Sabha on the 2nd December, 1970, the difficulties which had arisen in implementing that resolution, reference made by that Ministry to the Attorney-General and the Opinion given by the Attorney-General on the matter.”

(iv) “The Ministry of Steel and Mines in their factual note submitted to the Committee, stated *inter-alia* as follows:—

(a) The matter was discussed at a meeting of the Secretaries held on 25 January, 1971....It was decided that it was necessary to observe the prescribed procedure for issue of chargesheet and for giving a reasonable opportunity to Shri Mukherjee through an inquiry before taking a final decision in the matter.

(b) Accordingly Shri Mukherjee was served with a chargesheet on 21st May, 1971.....Simultaneously the Hon'ble Speaker, Lok Sabha, was informed on the 22nd May, 1971 that it would be necessary, during the proceedings to be initiated against Shri Mukherjee to tell him as to how and in what manner he was

responsible for false evidence being tendered before the Committee on Public Accounts. A request was made to Hon'ble Speaker that relevant proceedings of the Committee and the verbatim evidence tendered by Shri N.N. Wanchoo and Shri S.C. Mukherjee before the Committee in March, 1966, might be made available to the Department of Steel. This request of the Department of Steel was however, not acceded to by the Hon'ble Speaker for the reason that the relevant verbatim record of evidence given before the Sub-Committee of the Public Accounts Committee 'had not been laid on the Table of the House by the Committee and as such, it was confidential' and not open to inspection by anyone. However, the Lok Sabha Secretariat supplied this Department with a copy of the minutes of the sitting of the Sub-Committee of the PAC held from 9th to 12th March, 1966 during which amongst others, Shri N.N. Wanchoo and Shri S.C. Mukherjee had tendered evidence.

(c) In the meantime, Shri Mukherjee, in his reply to the chargesheet served on him in May, 1971, requested in his letter date 26th May, 1971 that the following files/documents *inter-alia* might be made available to him:—

(i) Verbatim transcript of the PAC proceedings on 9th and 10th March, 1966 containing the evidence tendered by Shri Wanchoo and myself on the question of Bank Guarantee.

(ii) Verbatim transcript of oral evidence on the subject of Bank Guarantee tendered before the Sarkar Committee by (i) Shri A.S. Bam, (ii) Shri N.N. Wanchoo, (iii) Shri S. Bhoothalingam, (iv) Shri G.N. Sen, and (v) myself.

In reply, Shri Mukherjee was informed on 13th July, 1971 on this point, as follows:—

‘In the CCS(CCA) Rules, 1965 there is no provision for inspection of documents for the purposes of submission of written statement of defence, Rule 14(4) of the said Rules is not intended for submission of any elaborate statement but only to give an opportunity to the person concerned to admit or deny his guilt. For this purpose, inspection of documents/files is not necessary.

Shri Mukherjee may, if he considers necessary, make a request for inspection of documents/files and also for copies/extracts of documents to the Inquiry Officer at the time of oral enquiry, when his request will be considered by that authority on merits and with reference to the rules on the subject.

- (d) The oral Inquiry of the case was entrusted to the Commissioner for Departmental Enquiries nominated by the Central Vigilance Commission for the purpose. The preliminary hearing of the inquiry took place on 1st January, 1972. At the very outset, Shri Mukherjee submitted an application asking *inter-alia* for the following documents:—

- (i) Verbatim report of the evidence (Questions and answers) tendered by Shri Mukherjee before PAC which are considered to be false or misleading.
- (ii) Verbatim report of the evidence (Questions and answers) tendered by Shri Wanchoo before PAC which he claims to have given on Shri Mukherjee's verbal advice.'

The Commissioner for Departmental Enquiries directed that the above documents should be made available to Shri Mukherjee for inspection.

- (e) In view of the directions of the Commissioner for Departmental Enquiries, the Hon'ble Speaker, Lok Sabha, was again approached on January 14, 1972 with the request that he might reconsider the question of making available the documents required for inspection by Shri Mukherjee. On being approached, the Lok Sabha Secretariat again declined to furnish this verbatim record. Further, the Speaker had in his reply dated March 1, 1972 observed as follows:—

'The question whether any false evidence was given before the Public Accounts Committee or that Committee was misled by Shri S.C. Mukherjee and thereby a contempt of the House was committed by him is within the exclusive jurisdiction of the House and the decision of the House on the matter is not subject to question or review by any outside authority.

- (f) It may also be stated that on July 28, 1971, Shri Mukherjee had submitted a petition addressed to the Speaker wherein he had

requested for review of the reprimand administered to him by Parliament. On December 1, 1971, the Lok Sabha Secretariat had called for certain factual comments from the Department of Steel. However, before these could be furnished, a communication was received from the Lok Sabha Secretariat on January 3, 1972, rejecting the Petition submitted by Shri Mukherjee.

This matter was discussed by the late Steel Minister with the Hon'ble Speaker on 30th January, 1972. It was felt, as a result of the discussions, that the advice of the Attorney General should be sought through the Ministry of Law, on the two major points:—

- (i) The proper procedure for dealing with petitions to Parliament of the type submitted by Shri S.C. Mukherjee and the legality appropriateness or otherwise of Parliament reopening a matter on which it had already arrived at a finding; and
- (ii) the most appropriate manner of implementing the second part of Parliament's Resolution without inadvertently or consciously offending the Constitution or committing contempt of Parliament.'

Accordingly a brief was prepared and the matter was referred to the Ministry of Law. A copy of the reply dated 1-3-1972, referred to in para (V) above received from the Speaker was also made available to the Ministry of Law. It may be added that from the reply dated 1-3-1972 received from the Speaker it had become clear that not only would it not be possible to pursue the disciplinary inquiry against Shri S.C. Mukherjee on the charge framed against him any further, but that an inquiry into the substance of the offence on which the Lok Sabha had already come to a finding might infringe the privileges of Parliament. On the other hand, if Government did not institute any proceeding and award any punishment. It would be running counter to the express direction given in the second part of the Lok Sabha Resolution but if any major punishment was awarded without giving Shri Mukherjee a full opportunity to defend himself, it was possible that the provisions of Article 311 of the Constitution would be attracted.

- (g) In brief, the opinion of the learned Attorney General was that if Government proceeded with a disciplinary inquiry without affording

the fullest opportunity to the officer charged to defend himself and take action under the 'directive' of the Lok Sabha Resolution to award the 'maximum punishment' there was no doubt that the courts would strike down such a punishment. On the other hand, it would not be advisable to ignore the Lok Sabha Resolution. In the circumstances the attorney Genral opined that the best course would be to request the Lok Sabha to review its Resolution of December 2, 1970 and, if possible delete the second part of the Resolution.'

(h) In view of the clear legal opinion, it was felt that the best course would be to report the matter back to the Lok Sabha, pointing out the constitutional difficulties in the way of Government implementing the second part of the Resolution.

(v) "The Committee observe that in pursuance of the first part of the Resolution adopted by Lok Sabha on the 2nd December, 1970. Shri S.C. Mukherjee was summoned at the Bar of the Lok Sabha on the 9th December, 1970 and reprimanded by the Speaker for having committed contempt of the House by deliberately misrepresenting facts and giving false evidence before the Committee on Public Accounts."

(vi) "In the second part of the aforesaid Resolution, the Lok Sabha recommended that the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to this House."

(vii) "The Ministry of Law, in their statement of case have pointed out that in the aforesaid Resolution, Lok Sabha had not specified the 'maximum punishment'. According to the Ministry of Law, if the 'maximum punishment' referred to in the aforesaid Resolution of Lok Sabha is a major punishment like dismissal, removal or reduction in rank then, before inflicting such punishment it is necessary under this sub-article (Sub-article (2) of Article 311 of the Constitution of India) as well as under Rules 14 and 15 of the Central Civil Service (Classification, Control and Appeal) Rules 1965, to hold a regular inquiry and impose the punishment in accordance with the gravity of the offence by the disciplinary authority".

(viii) "Article 311(2) of the Constitution provides:—

'No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed after such inquiry to impose on him any such penalty until he has been given a reasonable opportunity of making representation on the penalty proposed but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply:—

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason to be recorded by that authority, in writing it is not reasonably practicable to hold such inquiry; or

(c) whether the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry."

(ix) "Rule 14 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 *inter-alia* provides that no order imposing any of the penalties specified in clauses (v) to (ix) of rule 11 (major penalties, namely, reduction to a lower stage in the time-scale of pay; reduction to a lower time-scale of pay, grade, post or service; compulsory retirement; removal from service and dismissal from service) shall be made except after an enquiry held....'

Rule 15 of the Central Civil Service (Classification, Control and Appeal) Rules 1965, lays down the procedure for taking action on the inquiry report against a Government servant and for imposing penalties on him. This rule *inter-alia* provides that if any major penalty is to be imposed on a Government servant, he shall be given a copy of the report of the inquiry conducted against him and a notice stating the penalty proposed to be imposed on him and calling upon him to submit such representation as he may wish to make on the proposed

penalty within a specified time. After considering the representation, if any, made by the Government servant disciplinary authority can determine what penalty, if any, should be imposed on the Government Servant and make such order as it may deem fit."

- (x) "The Committee note that part (b) of the proviso to article 311(2) of the Constitution provides for an exception to the obligation to hold an inquiry against a Government servant before he is dismissed or removed or reduced in rank, 'where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry'.

The Committee are, however, of the opinion that this provision will not cover the case of a Government servant against whom a departmental inquiry is to be conducted and who is available to take part in the proceedings of that inquiry. The Committee agree with the views of the Minister of Law, Justice and Company Affairs on this matter, contained in his note, dated the 29th August, 1973."

- (xi) "After careful consideration of the implications of the provisions of article 311(2) of the Constitution and Rules 14 and 15 of Central Civil Service (Classification, Control and Appeal) Rules 1965, the Committee are of the opinion that in order to impose on Shri S.C. Mukherjee 'maximum punishment under the law' (namely, a major punishment like dismissal, removal from service or reduction in rank), as recommended by Lok Sabha in their Resolution of 2nd December, 1970, it would be necessary to fulfil the constitutional requirements of article 311(2) and the procedural requirements of Rules 14 and 15 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965."
- (xii) 'However, the constitutional and legal implications of fulfilling the requirements of Article 311(2) and Rules 14 and 15 of the Central Civil Service (Classification, Control and Appeal) Rules 1965, will be as follows:—
- (i) An inquiry is required to be held by the disciplinary authority (Government) against Shri S.C. Mukherjee, as to whether Shri S.C. Mukherjee was responsible for the

misrepresentation of certain facts and the tendering of false evidence before the Committee on Public Accounts in 1966;

- (ii) In accordance with the laws of natural justice, Shri S.C. Mukherjee will have to be provided access, during the course of the aforesaid inquiry, to the documents on which the charge against him is based which will include the verbatim record of evidence given before the Committee on Public Accounts by Sarvashri S.C. Mukherjee and N.N. Wanchoo in 1966, when Shri S.C. Mukherjee gave false evidence before the Committee on Public Accounts;
- (iii) The penalty to be imposed on Shri S.C. Mukherjee will be only on the basis of the evidence adduced during the inquiry."
- (xiii) "According to the opinion of the Attorney-General of India, 'Shri Mukherjee is entitled to be heard in the pending disciplinary proceedings against him and thus is entitled to the materials he has asked for.....and if such information be not given the inquiry will, in my view, be vitiated'. The Attorney-General is also of the opinion that if maximum punishment is inflicted on Shri Mukherjee by Government in pursuance of the Resolution adopted by Lok Sabha on the 2nd December, 1970, it will be 'at the risk of such punishment, if challenged, being struck down by a court of law'. The Attorney-General has 'no doubt that such challenge will succeed'."
- (xiv) "The Committee thus observe that in order to implement the second part of the Resolution adopted by Lok Sabha on the 2nd December, 1970 recommending that Government should administer to Shri S.C. Mukherjee 'maximum punishment under the law', the finding and decision of the House, arrived at after detailed and thorough investigations by the Committee on Public Accounts and the Report of the Committee of privileges, namely, that Shri S.C. Mukherjee had 'deliberately misrepresented facts and given false evidence before the Committee on Public Accounts' will have to be made the subject matter of an inquiry by a subordinate outside authority and also subject to a possible judicial scrutiny if the punishment awarded to Shri S.C. Mukherjee by Government is subsequently challenged in a court of law."
- (xiv) "The Committee are of the view that such

course of action will be highly derogatory to the dignity and authority of the House as the House is the master of its own privileges and no outside authority can question, inquire into, scrutinise, review or sit in judgement on the decisions of the House in matters of its breaches of privileges and contempt. It is also well-established that the House has exclusive jurisdiction over its internal proceedings. The question whether false evidence has been tendered before a Parliamentary Committee is an internal matter of the House and is thus within the exclusive jurisdiction of the House. This position was well stated by the Speaker, Lok Sabha (Dr. G.S. Dhillon) in his letter dated the 1st March, 1972 in reply to the request from the Minister of Steel and Mines (late Shri Mohan Kumaramangalam) for making available to Shri S.C. Mukherjee the verbatim record of evidence given by him before the Committee on Public Accounts in 1966:—

"The Question whether any false evidence was given before the Public Accounts Committee or that Committee was misled by Shri S.C. Mukherjee and there by a contempt of the House was committed by him is within the exclusive jurisdiction of the House and the decision of the House on the matter is not subject to question or review by an outside authority. Any departmental proceedings against Shri S.C. Mukherjee have accordingly to proceed on the basis of the findings and decision of the House in the matter'."

(xvi) "The Committee after considering all aspects of the matter are of the opinion that the second part of the Resolution adopted by Lok Sabha on the 2nd December, 1970, recommending that 'the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law' may be rescinded by the House."

(xvii) "The Committee recommend that the following part of the Resolution adopted by Lok Sabha on the 2nd December, 1970 may be rescinded:—

'and the House do further recommend that the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to the House'."

Action taken by the House

8. On the 29th November, 1973, the Chairman, Committee of Privileges (Dr. Henry Austin) moved the following motion which was adopted by the House:—

"That this House do consider the Sixth Report of the Committee of Privileges presented to the House on the 15th November, 1973."

9. Thereafter, the Chairman Committee of Privileges also moved the following motion:—

"That this House do agree with the Sixth Report of the Committee of Privileges presented to the House on the 15th November, 1973 and do resolve that the following part of the Resolution adopted by Lok Sabha on the 2nd December, 1970 be rescinded:—

'and the House do further recommend that the Government in the light of gravity of the offence administer to Shri S.C. Mukherjee maximum punishment under the law and report the same to this House.'"

10. Shri Madhu Limaye, a member, then moved the following amendment to the above motion:—

"That in the motion, add the following at the end:—

'and the House do further resolve that the said Shri S.C. Mukherjee be arrested and kept in the custody of the Lok Sabha's Security Guard from 11.00 A.M. till the rising to the House on the 3rd December, 1973 for his deliberate misrepresentation of facts and for his having given false evidence before the Public Accounts Committee'."

11. After a brief discussion, Shri Limaye's amendment was put to vote and negatived by the House.

12. Thereafter the House adopted the original motion (See para 9 above) moved by the Chairman, Committee of Privileges.

576

LOK SABHA
(1981)

Point of privilege

Rescission of a Resolution adopted by the previous Lok Sabha agreeing with the findings and recommendations of Committee of Privileges and awarding punishment to alleged contemnors for committing a breach of privilege and contempt of the House

Facts of the case and action taken by the House

On 7th May, 1981 Shri B.R. Bhagat, a member, sought to move the following motion for rescinding the resolution adopted by the Sixth Lok Sabha on 19th December, 1978:—

“Whereas the Committee of Privileges of the Sixth Lok Sabha in its Third Report has expressed the view that:—

(a) any person if engaged in collecting information asked for by Parliament should be deemed to be in the service of Parliament and entrusted with the execution of the orders or the performance of the functions of the House even though he is technically not an employee or officer of Parliament;

(b) a person charged with breach of privilege is bound if so required by the Committee to take oath/affirmation and to depose before the Committee and answer any questions regarding the facts of the case;

(c) a person charged with breach of privilege is bound to answer questions even without taking an oath/affirmation, even though, that person would not be required to answer any self incriminatory questions;

(d) an averment in a written statement submitted to the Committee by person charged with breach of privilege; expressing reasonable apprehension of the influence on the members of the Committee belonging to the ruling party of its openly declared antagonism towards the person involved would constitute a breach of privilege and contempt of the Committee;

Whereas the Sixth Lok Sabha by a Resolution adopted on 19th December 1978 agreed with the above recommendations and findings of the Committee and on the basis thereof held Shrimati Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen guilty of breach of privilege of the House and inflicted on them the maximum penalty possible in violation of the Principle of Natural Justice;

CONSIDERING that

(a) the above findings are in total contravention of Parliamentary rules, precedents and conventions;

(b) they unduly extended the immunity enjoyed only by the officers of Parliament in the discharge of their duties to an indeterminate number of persons totally unconnected with Parliament and constrict and

deny to persons charged with breach of privilege and contempt of the House inalienable rights and safeguards guaranteed by the Constitution;

(c) if the above findings are allowed to remain on record they would serve as standing instruments in the hands of any party in power of narrow, partisan political ends of calumny, harassment and public denigration by persecuting its opponents as actually happened in the case of Smt. Indira Gandhi.

(i) a pre-determined design to vilify Smt. Indira Gandhi, deprive the electorate of Chikmagalur of its due representation in Parliament stifle the authentic voice of national dissent from the floor of the House, thus the democratic process;

(ii) to denigrate and to imprison Smt. Indira Gandhi;

(iii) to hand out in the guise of privilege proceedings, a finding from the Parliament against Smt. Indira Gandhi so that the same may hang as a compulsive pall over the criminal courts in the then impending trial against Smt. Indira Gandhi and others on charges based on the same allegations; and

(d) the said proceedings of the Committee and the decision of the House were wrong and erroneous and with a view to correct this distortion and establish correct conventions and precedents for future parliamentary procedures.

NOW THEREFORE this House resolves and declares that:—

(a) the said proceedings of the Committee and the House shall not constitute a precedent in the law of parliamentary privileges;

(b) the findings of the Committee and the decision of the House are inconsistent with and violative of the well accepted principles of the law of parliamentary privilege and the basic safeguards assured to all and enshrined in the Constitution; and

(c) Smt. Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen were innocent of the charges levelled against them.

AND ACCORDINGLY this House:

rescinds the resolution adopted by the Sixth Lok Sabha on the 19th December, 1978.”

2. Sarvashri Jyotirmoy Bosu, Indrajit Gupta, Chitta Basu, Subramaniam Swamy and Prof. Madhu Dandavate, Members thereupon raised a point of order that in admitting the motion the Speaker had bypassed the Business Advisory Committee.

Sarvashri Ram Vilas Paswan, Jyotirmoy Bosu, Ram Jethmalani, Indrajit Gupta and K.P. Unnikrishnan, members raised points of order that the motion offended sub-rules (ii), (iv) and (v) of Rule 186 which provide that it shall not contain arguments, inferences, ironical expressions, imputations or defamatory statements and it shall be restricted to a matter of recent occurrence and that it shall not raise a question of privilege.

Another point of order raised by Shri Somnath Chatterjee a member was that the resolution (of Sixth Lok Sabha) which was passed under Rule 315 was sought to be rescinded by a motion under rule 184 which was without a precedent.

3. Disposing of the points of order the Speaker (Dr. Bal Ram Jakhar) gave the following ruling:—

".....a question was raised as to whether it was the invariable rule to consult the Business Advisory Committee before allotting time and date for discussion on a motion that has been admitted by the Speaker in terms of the Rules.

I would like to invite attention of Members to Rule 190 which reads as follows:—

'The Speaker may, after considering the state of business in the House and in consultation with the Leader of the House, allot a day or days or part of a day for the discussion of any such motion'.

The wording of the Rule is quite clear and gives discretion to the Speaker to allot a day and time for discussion of any such motion in consultation with the Leader of the House as time for it has essentially to be found from the time available for transaction of Government business.

This in on way impinges on the powers of the Business Advisory Committee as the item so included is supplemental to and not in supersession of the recommendations of the Business Advisory Committee.

Further, Mr. Patnaik asked me yesterday if I could cite a precedent. Yes, I can I understand that in 1968, when a motion under Rule 184 by Shri Madhu Limaye was admitted against the conduct of the then Deputy Prime Minister, the Speaker fixed the date for discussion in

consultation with the Leader of the House and this was notified without the matter being placed before the Business Advisory Committee.

Now, if Mr. Patnaik wants to ask any questions on this, he can come to me on any day.

I would now request the Hon'ble Members to kindly extend the courtesy of listening to the observation that I have to make in respect of the points raised by them. When the notice of this motion was received, it was examined most carefully with reference to the provisions in the Rules relevant precedents and only thereafter it was admitted.....A number of members have drawn attention to the provisions of Rule 186 and sought to make out that these are infringed by the admission of the motion.

As far as Rule 186(ii) is concerned, there are hardly any inferences or defamatory statements or imputations as such in the motion. It is a well drafted presentation of facts which are necessary for purpose of the motion....As regards the reference of Rule 186(iv) that it should be restricted to matter of recent occurrence, this has to be interpreted with reference to the nature and substance of the motion. The House is supreme and if it chooses as did the House of Commons in U.K. in Wilkes case to revise its own decision, it has full right to do so and it would not be appropriate to take such a rigid stand.

As regards the objection that it raise a question of privilege I have already explained in this context that Rules 222—228, as contained in Chapter XX of the Rules of Procedures are not attracted in the present case, as no fresh question of privilege as such is being raised but what is sought to be done is to rescind a motion which has been earlier adopted by the House and as such Rule 186(v) is not contravened.

The point has been raised that the earlier Motion had been brought before the House in pursuance of Rule 315 whereas the new Motion has been entertained under Rule 184. As I mentioned a little while ago the present Motion that we are discussing does not as such deal with the question of privilege and therefore the Rules pertaining to privilege as enumerated in Rules 222 to 228, 313 to 316 are not attracted.

I hold the Motion to be in order and I would now call upon Shri B.R. Bhagat to initiate the debate."

4. Shri B.R. Bhagat thereupon moved the motion.

5. After some discussion, Shri B.R. Bhagat moved the following amendment to his motion:—

"I beg to move:

"That in the motion—

in para 3—

(i) after—

"(c) if the above findings are allowed to remain on record they would serve as standing instruments in the hands of any party in power for narrow, partisan political ends of calumny, harassment and public denigration persecuting its opponents as actually happened in the case of Smt. Indira Gandhi."

insert—

"(d) the above gross distortions were engineered in the unconscionable misuse of the majority in Parliament in the pursuit of;

(ii) for '(d)' substitute (e)"

6. After further discussion, the following amended motion was adopted by the House:—

"WHEREAS The Committee of Privileges of the Sixth Lok Sabha in its Third Report has expressed the view that:—

(a) any person, if engaged in collection information asked for by Parliament, should be deemed to be in the service of Parliament and entrusted with the execution of the orders or the performance of the functions of the House even though he is technically not an employee or officer of Parliament;

(b) a person charged with breach of privilege is bound if so required by the Committee to take oath/affirmation and to depose before the Committee and answer any questions regarding the facts of the case;

(c) a person charged with breach of privilege is bound to answer questions even without taking an oath/affirmation even though that person would not be required to answer any self-incriminatory questions;

(d) an averment in a written statement submitted to the Committee by a person charged with breach of privilege, expressing reasonable apprehension of the influence on the members of the Committee belonging to the ruling party of its openly declared antagonism towards the person involved would constitute a breach of privilege and contempt of the Committee:—

WHEREAS the Sixth Lok Sabha by a resolution adopted on 19th December, 1978 agreed with the

above recommendations and findings of the Committee and on the basis thereof held Shrimati Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen guilty of breach of privilege of the House and inflicted on them the maximum penalty possible in violation of the Principle of Natural Justice.

CONSIDERING that

(a) the above findings are in total contravention of Parliamentary rules, precedents and conventions;

(b) they unduly extended the immunity enjoyed only by the officers of Parliament in the discharge of their duties to an indeterminate number of persons totally unconnected with Parliament and constrict and deny to persons charged with breach of privilege and contempt of the House inalienable rights and safeguards guaranteed by the Constitution;

(c) if the above findings are allowed to remain on record they would serve as standing instruments in the hands of any party in power for narrow, partisan political ends of calumny, harassment and public denigration by persecuting its opponents as actually happened in the case of Smt. Indira Gandhi;

(d) the above gross distortions were engineered in the unconscionable misuse of the majority in Parliament in the pursuit of;

(i) a pre-determined design to vilify Smt. Indira Gandhi, deprive the electorate of Chikmagalur, of its due representation in Parliament stifle the authentic voice of national dissent from the floor of the House, thus the democratic process;

(ii) to denigrate and to imprison Smt. Indira Gandhi;

(iii) to hand out in the guise of privilege proceedings, a finding from the Parliament against Smt. Indira Gandhi so that the same may hang as a compulsive pall over the criminal courts in the then impending trial against Smt. Gandhi and others on charges based on the same allegations; AND

(e) the said proceedings of the Committee and the decision of the House were wrong and erroneous and with a view to correct this distortion and establish correct conventions and precedents for future Parliamentary procedures.

Privileges Digest

NOW THEREFORE this House resolves and declares that:—

(a) the said proceedings of the Committee and the House shall not constitute a precedent in the law of parliamentary privileges;

(b) the findings of the Committee and the decision of the House are inconsistent with and violative of the well-accepted principles of the law of

parliamentary privilege and the basic safeguards assured to all and enshrined in the Constitution; and

(c) Smt. Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen were innocent of the charges levelled against them.

AND ACCORDINGLY this House:—

rescinds the resolution adopted by the Sixth Lok Sabha on the 19th December, 1978."

STATEMENT BY AMBASSADOR

577

LOK SABHA
(1977)

Point of privilege

Alleged wrong statement about detention of political leaders by Indian Ambassador in U.S.A.

Facts of the case and ruling by the Speaker

On the 1st April, 1977, Shri Jyotirmoy Bosu, a member, sought to raise a question of privilege against Shri T. N. Kaul, former Ambassador of India in U.S.A. for certain remarks made by him on a television network in U.S.A. in July 1975, about detention of political leaders. While raising the matter, Shri Bosu stated as follows:—

“On 11-7-75, after the Proclamation of Emergency, Shri T. N. Kaul, the then Indian Ambassador in U.S.A.....in an interview telecast by the N.B.C., one of the national television networks of the USA said:

‘Political leaders had not been jailed but detained in houses.’

This is a gross distortion of truth and it wholly contradicts publications already made in Part II Bulletins of Lok Sabha under your orders and authority notifying arrests and detentions of a number of political leaders in the Opposition. By this action, he has committed a serious breach of privilege of the House as well as of the members detained in jails.

I, therefore, request that the matter be referred to the Privileges Committee for proceeding further into it.”

2. The Minister of External Affairs (Shri Atal

Bihari Vajpayee) made *inter alia* the following statement:—

“Clarification was called for from Shri T. N. Kaul. According to Shri Kaul, he had no intention of distorting the facts and his remarks in the television interview were based on the information then available with him. Shri Kaul has also submitted that he had not seen the Parliamentary Bulletins referred to by Shri Jyotirmoy Bosu....

He has also stated that if his remarks based on incomplete information have hurt anyone it is unfortunate but he had no intention of making a wrong statement.

I may add that whatever he said was not based on facts....”

3. The Speaker (Shri N. Sanjiva Reddy) reserved his ruling.

4. On the 7th April, 1977, the Speaker disallowed the question of privilege and ruled *inter alia* as follows:—

“I have carefully considered the matter. In order to constitute a breach of privilege, the impugned statement should relate to the proceedings of the House or to members in the discharge of their duties as members of Parliament. It may be seen that the impugned statement of Shri Kaul related to political leaders and not to members of Parliament as such, although members of Parliament are also political leaders.

Secondly, Shri Kaul's remarks were made in July, 1975, when the Fifth Lok Sabha was in existence. The matter cannot be raised as a privilege issue in the Sixth Lok Sabha.

In the circumstances, no question of privilege is involved in the matter.”

STATEMENT(S) OUTSIDE HOUSE WHEN IN SESSION

578
LOK SABHA
(1955)

Point of privilege

Alleged expression of views by Finance Minister regarding taxation proposals for second five Year plan outside the House

Facts of the case and ruling by the Speaker

For details of the case please see summary No. 391 at p. 545 ante.

579
LOK SABHA
(1959)

Point of privilege

Making of an important statement by Prime Minister outside the House when the House was in Session

Facts of the case and ruling by the speaker

On the 4th December, 1959, Shri Hem Barua, a member, complained in the House that the Prime Minister had on the previous day stated at a Press Conference that he had received a reply from the Prime Minister of China to India's protest against the ill-treatment of Indian prisoners, although he had ample opportunity to make a statement in the House. He added that when the House was in session, an important statement should be made on the floor of the House before it was made anywhere outside the House.

2. The Prime Minister (Shri Jawahar Lal Nehru) stated *inter alia* as follows:—

“....In fact, I do not see any question of policy involved or any question in which the House or the country is agitated. Here is a correspondence going on. I wrote a letter and I received a letter in reply to which I am going no doubt, to reply in time, but just to inform the House that I received a letter, rather a formal letter from there, seems to me no specific or great importance. I would certainly have informed it always if a proper request or a suggestion for that was made....I did not make any statement there. A question was, asked and I gave an answer that I have received a letter.”

3. The Speaker (Shri M. A. Ayyangar) observed *inter alia* as follows:—

“....I have said that whenever any statement of policy has to be made or is made by a Minister when the House is in session he must take the House into confidence first. If a letter has been received and no specific question has been put here to the hon. Prime Minister, you cannot take it as a breach of privilege of this House if he does not state it here. No doubt, the hon. member tabled yesterday an adjournment motion. I did not allow it...It is not as if I called upon the Prime Minister, he refused to disclose that information here and then went to the Press Conference and disclosed it here. In that case it would have been a different matter...Every matter which is not placed before the House is not a matter of such great importance. It is not a breach of privilege.”

580
LOK SABHA
(1959)

Point of privilege

Making of an important statement by a Minister outside the House when the House was in session

Facts of the case and ruling by the Speaker

On the 17th December, 1959, the Speaker (Shri M. A. Ayyangar) informed the House that he had received notice of a question of privilege stating that the Minister of Defence had made an important policy statement regarding the expansion of NCC outside the House while the House was in session.

2. After hearing the Minister of Defence, the Speaker observed as follows:

‘I am clear in my mind that there is no breach of privilege in this matter’

Even if a matter of policy were to be announced outside the House while the House is in

session, it was ruled¹ in the House of Commons that there was no breach of privilege; it may be a breach of courtesy. When the House is in session all matters of policy ought to be announced first to the House. That is the rule that has been adopted for several years in this House also.

So far as this matter is concerned the hon. Minister has explained that it is only an expansion of the NCC for which he need not come before the House for an particular sanction from time to time. So far as the announcement of the new policy is concerned, the hon. Minister says that there will be Resolution and he will discuss it there. Even if he had made a statement, that is not a breach of privilege and no consent should be given to raise it as a matter of privilege. But all the same, I am sure the hon. Ministers will observe this decorum and courtesy to this House. So far as this matter is concerned. I am satisfied that the hon. Minister has not said anything outside the House which, even as a matter of courtesy, he ought to have placed before the House before saying it outside."

581

LOK SABHA
(1963)

Point of privilege

Announcement regarding resignation of certain Ministers by the Prime Minister outside the House when the House was in session

For details of the case please see summary No. 20 at p. 346 ante.

582

LOK SABHA
(1963)

Point of privilege

Statement by a Minister outside the House on a subject already fixed to be taken up on a future date.

Facts of the case and ruling by the Speaker

On the 18th December, 1963, Shri Homi F. Daji, a member, alleged that the Prime Minister had made a statement to the press reporters and also in the other House on a subject (reported deployment of U.S. Seventh Fleet in Indian Ocean) on which he knew a calling attention notice had been scheduled to be taken up in the House on the 19th December, 1963. Shri Daji contended that the Prime Minister, in making the statement outside the House, had committed a breach of privilege of the House.

2. The speaker observed as follows:—

"I shall postpone that, because the Prime Minister is not here just now. When the Prime Minister is here. I shall take it up. But at this moment. I could just make this much clear that there is no breach of privilege involved..."

I have held so many times that the making of a statement elsewhere by a Minister is no breach of privilege, though it is desirable that when such a statement has to be made, it might be made inside the House.

I shall keep that pending and take it up, when the Prime Minister is also here."

3. On the 19th December, 1963, Shri Daji again sought to raise it as a question of privilege. The Prime Minister (Shri Jawaharlal Nehru) said that on the 17th December, 1963, after General Taylor had met him and he was on his way to the House just before 11 A.M. some newspaper men surrounded him and he had to say one or two phrases in answer to their questions. He added that at that time he did not know that the Speaker had fixed 19th December for the calling attention notice and further, it was only afterwards that the Speaker had informed the House about fixing the 19th December for taking up the calling attention notice.

4. The Speaker observed as follows:—

"The position is very clear, and in fact, I had given my decision on that very day that there might be a question of courtesy, propriety and desirability but there was no question of breach of privilege at all. I had said that. But

¹In the House of Commons, U.K., the Speaker had ruled:

"I am clear that there is no question of privilege about it. The custom of the House whereby Ministers judge it courteous to the House to make important announcements here before they make them outside, is matter of courtesy which has grown into a custom, a good custom, of the House. Its breach does not raise a question of privilege".

[H.C. Deb. dt. 7-5-52, Vol. 500 cc. 390-91]

then Shri Daji had raised the point that there was one distinction namely that it had been on the agenda of this House. Though strictly it was not put down as one of the items, yet I had announced it in the House that it would be taken up on the 19th.

I have studied all rulings upto this time not only in India but also in the United Kingdom. They are all uniform in this respect that statement by Ministers outside the House in regard to their policy matters or some such things do not constitute a breach of privilege of the House, though it is a matter of propriety, and courtesy also demands that they should be made in the House when the House is in session.

I had the benefit of looking into decisions where really the matter has on the agenda itself. There too it has been held that it does not constitute in any case a breach of privilege at all. But courtesy demands that when there is such a thing then the statement should be made before the House. But there might be circumstances otherwise.

As the hon. Prime Minister has said more than once before, it is desirable that when the House is in session, any statement on matters of broad policy might be made here. I am not taking notice of anything that might have happened in the other place. As regards the objection that it had been given to the press as the Prime Minister has just now explained the pressmen had met him before he entered this House. Therefore, there is no question of any breach of privilege in this respect so far as this matter is concerned.

As regards the other thing, I have already stated....that we have decided many times before, and the other day also I gave my decision on it. So, there is nothing more that I can do."

583

LOK SABHA
(1966)

Point of privilege

Announcement of a Minister's resignation and statement by the resigning Minister outside the House

For details of the case please see summary No. 211 at p. 347 ante.

584

LOK SABHA
(1973)

Point of privilege

Making of an alleged policy statement by the Prime Minister outside the House on a matter pending discussion in the House.

Facts of the case and ruling by the Speaker

On the 2nd May, 1973, Shri Madhu Dandavate, a member, sought to raise a question of privilege against the Prime Minister for making an alleged policy statement regarding the supersession of three Judges of the Supreme Court, outside the House when that matter was also to come up for discussion before the House.

2. The Speaker (Dr. G. S. Dhillon) disallowed the question of privilege and observed as follows:—

"This is not a question of policy. She has got every right to speak outside."

3. When Shri Dandavate added that it might be a case of breach of convention and propriety, the Speaker observed that 'there is no question of propriety about it'.

585

LOK SABHA
(1977)

Point of privilege

Making of an alleged policy statement by a Minister outside the House while it was in session

Facts of the case and ruling by the Speaker

On the 6th April, 1977, Shri K. S. Dhondge, a member, sought to raise a question of privilege against the Minister of Health and Family Planning (Shri Raj Narain) for allegedly making a policy statement regarding payment of compensation to victims of forcible sterilisation, outside the House on the 3rd April, 1977 when the House was in session. While raising the matter, Shri Dhondge stated *inter alia* as follows:—

"...When the House is in session, all Government policies, economic or relating to family planning, should be first brought before the House. Mr. Speaker, it is a matter of regret that the hon. Minister of Health and Family Planning in a statement in Kanpur on the 3rd April, said that he had directed the State Government to pay Rs. 5000 to the victims of forcible sterilisation. He made

several such announcements. Therefore, I feel that it is a gross contempt of this House not to make such statement here when the House is in session....This attitude is improper. He should have first made the statement here....I would request him to inform the House in the matter."

2. The Minister of Health and Family Planning (Shri Raj Narain) thereupon, made *inter alia* the following statement:—

"Sir, I shall read out the policy which was being followed up to now for the information of the hon. Members.... This circular existed at the time of the Cabinet in which Babuji was a Minister. It is stated therein that if a person dies within ten days of sterilisation or loop insertion, Rs. 5000/- shall be paid from this fund to his spouse or in case the spouse is not alive, to his relatives, whatever may be the cause of his death. Even in cases where some complication arises within four weeks of sterilisation or loop insertion and the person concerned dies thereafter Rs. 5000/- shall be given as grant if it is established that the death occurred as a result of sterilisation or loop insertion. What I stated was the earlier policy and not a new policy."

3. The Speaker (Shri N. Sanjiva Reddy), thereafter, disallowed the question of privilege and ruled that there was no question of privilege involved.

586
LOK SABHA
(1977)

Point of privilege

Making of a statement by a Minister on A.I.R. and T.V. while the House was in session instead of making it in the House.

Facts of the case and ruling by the Speaker

On the 29th November, 1977, Shri Vayalar Ravi, a member, gave notice of a question of privilege against the Minister of Home Affairs (Shri Charan Singh) for making a statement on A.I.R. and T.V. regarding the alarming increase of sabotage cases in vital sectors in which he disclosed not only the various steps taken by the Government but also definite information about the sabotage. He contended that the Minister had not cared to make

any statement on this matter on the floor of the House which was in session.

2. On the 30th November, 1977, Shri Vayalar Ravi sought to raised the matter in the House and enquired whether it was proper on the part of the Minister of Home Affairs to go outside the House and make a statement while the matter was still before the House.

3. On the 7th December, 1977, while withholding his consent, the Speaker (Shri K. S. Hegde) ruled as follows:—

"I do not think that any question of privilege arises in the present case. I also do not think that the broadcast made by the Home Minister was in-appropriate. Evidently, the Home Minister made a broadcast to the nation with a view to warn the public about the existence of a certain state of affairs. He also wanted to inform the public of the various steps taken by the Government. Early information to the public in respect of the matters mentioned in the broadcast was necessary and the same was in public interest.

Under these circumstances, the consent asked for under rule 223 is refused."

587
LOK SABHA
(1974)

Point of privilege

Making of an important announcement by Government outside the House when it was in Session

Facts of the case and ruling by the Speaker

On the 4th March, 1974, Shri S. M. Banerjee, a member, complained that Government had made an important announcement regarding increase in the prices of petroleum products outside the House while the House was in Session. Shri S.M. Banerjee contended that when the House was in Session, making of an important announcement by Government outside the House constituted a contempt of the House.

2. After some discussion, the Speaker (Dr. G. S. Dhillon) observed *inter alia*, as follows:—

"This was levied on the 1st midnight. I got a letter from the Minister dated March the

1st in which he says: 'As you are aware, steep increase in crude oil etc. has taken place.' But this letter reached my office on the 2nd...At the end, the letter says: 'I would like to make a statement in the Lok Sabha in this regard tomorrow itself. However as Saturday and Sunday are holidays I would be grateful if I am provided with an opportunity of making a statement in this regard on the morning of Monday, the 4th, 1974, so that the hon. Members may have a full appreciation of the reasons which have impelled the Government to take this decision.' So far as this matter is concerned...the Government did not act just on the spur of the moment at midnight. They must already have decided about it much earlier and that had to take effect from the midnight of 1st March. The House was sitting on the 1st and the hon. Minister was here throughout the day. My ruling was already there on the records. Further, if it was not possible to make statement in the morning, there was ample opportunity to make it at 6 P.M. in the evening. Every official action including the drafting etc. must have been completed before 6 P.M. in his offices also, at least by 4 O' clock. Why should he act in such a way that he ignores the previous observations of the Speaker or the Chair and the sentiments of the House?

When Parliament is sitting and important decisions are taken...one thing which I cannot ignore is that to take such decisions without informing the House is improper. The House was sitting on that very day, on the evening of that day when this levy was to be imposed, so. I would reiterate that it was not proper, and it should not be repeated in the future...It has already been held in such cases that it is at the most improper, not a privilege question, I reiterate that it was an impropriety."

3. The Minister of Petroleum and Chemicals (Shri D.K. Barooah) stated *inter alia*, as follows:—

"The Cabinet decision was finalised at 7 O' clock on 1st March, that was Friday. Immediately, I wrote a letter to you, Sir, that I would like to make a Statement as soon as the House met...But there was one problem; if we did not implement the Cabinet decision

immediately, there would have been a run on the stocks...It was not done with a view to showing, not to speak of contempt even disrespect to this House.... It goes against my grain, and certainly against the grain of the members of the Government to show even the least disrespect to the House. As I said, this was done under a constraint."

The matter was, thereafter closed.

588

LOK SABHA (1980)

Point of privilege

Making of important announcements by Ministers in the House first when the House is in session.

Facts of the case and ruling by the Speaker

On 26th March, 1980, Shri Atal Bihari Vajpayee a member, sought to raise a question of propriety against the Minister of Home Affairs (Giani Zail Singh) for not informing the House first about the dissolution of the Delhi Metropolitan Council on Friday, 21 March, 1980, when Lok Sabha was in session. While raising the matter, Shri Vajpayee stated, *inter alia*, as follows:—

"....It is a convention of democracy and of this House also that when the House is in session. Government should make important announcements in the House and not outside. On Friday, 21 March, the President decided to dissolve the Delhi Metropolitan Council. According to my information, he signed the notification at 3 O'clock and the Delhi Administration was informed about it at 4 O'clock. The House sat up to 6 O'clock on that day. The Home Minister could have come and made this announcement in the House. But, he did not do so. I have given a notice of question of privilege in this regard....Everybody should show respect to this House, which has not been done in this case. The Home Minister is guilty of impropriety and I would like you to tell the Ministers that they should take the House seriously and protect its dignity. In this connection it is very important to warn the Minister of Home Affairs".

2. The Deputy Speaker (Shri G. Lakshmanan) then Observed *inter alia*, as follows:—

“According to past precedents and rulings from the Chair such a matter does not involve a question of privilege...I am allowing it to be raised as a matter of propriety...”

3. The Minister of State in the Ministry of Home Affairs and Department of Parliamentary Affairs (Shri P. Venkatasubbaiah) thereupon, stated as follows:—

“We do not show any disrespect to the House. We hold this House in high esteem. I would like to explain the matter to you. He has raised the question of propriety. I will say that the Government has not committed any breach of propriety also. The proclamation has been signed by the President in the afternoon of Friday. The process has to be carried on before the matter is placed before the Lok Sabha. We have taken the earliest opportunity of placing the proclamation on the Table of the House. So, we have given the greatest respect. I once again reiterate that there is no disrespect meant to this House.”

4. The matter was, thereafter, closed.

589

LOK SABHA
(1980)

Point of privilege

Announcement of constitution of Press Commission outside the House while the House was in Session.

Facts of the case and ruling by the Speaker

On 19th June, 1980, Dr. Subramaniam Swamy, a member on a point of order drew attention of the House to the fact that an announcement about the constitution of the Press Commission had already appeared in papers before it had been made in the House. The member contended that the Parliament was being devalued and wanted to know whether it was fair to the House that when the House was in Session such an important announcement was made outside the House.

2. The Minister of Parliamentary Affairs (Shri Bhishma Narain Singh) then stated that he had noted the point and would communicate it to the Minister concerned.

3. On 20th June, 1980 Shri V.P. Sathe, Minister of Information and Broadcasting, while making a statement in the House, stated, *inter alia* as follows:—

“Yesterday some Hon. members had mentioned in the House that the names of the new members of the Press Commission should have been conveyed to the Sabha first.

As the Hon. members are aware, Government had accepted the resignations submitted in January, 1980, by the former Chairman and the members of the Press Commission and had also announced that the Commission would be re-constituted with revised and more comprehensive terms of reference. Subsequently, Government extended the tenure of the Press Commission till the 31st December, 1980 and had also appointed Justice Shri K.K. Mathew as the Chairman on April, 21, 1980.

For some time some names have been appearing in the press. Under the rules, as far as the names of the members of the Press Commission are concerned they have to be duly notified so that they could be validly published. However, as to the revised terms of reference, they have to be approved by the Cabinet. Hence the Notification of the names of the new members was made on the 18th June, 1980. As to the terms of reference, I wanted to place it before the House after they had been approved by the Cabinet.

There was absolutely no desire on my part to bypass this Hon'ble House and the Parliament as I value both the conventions as well as the dignity of this House.”

4. After some discussion the Speaker observed that the matter had been amply cleared by Shri Vasant Sathe.

The matter was, thereafter closed.

590

LOK SABHA
(1984)

Point of privilege

Making of an important announcement by a Minister outside the House while the House was in session.

Facts of the case and ruling by the Speaker

On 2nd April, 1984 the Deputy Speaker (Shri G. Lakshmanan) observed as follows:—

“Shri Mani Ram Bagri has given notice of a question of privilege regarding announcement made by the Home Minister outside the House about ‘Government’s approval’ of Akalis’ demand to amend Article 25 of the Constitution.

It is well established that no question of privilege is involved if statements on matters of public interest are not first made in the House and are made outside. However, such actions are against conventions and propriety. Therefore it would have been more appropriate to announce this in the House first.

The Home Minister is making a statement today in the House on this matter. May I request the Home Minister to explain whether this matter was so urgent that he could not wait till the House met today?”

2. Later in the day, when the Minister of Home Affairs (Shri P.C. Sethi) made a statement in the House regarding “Akalis’ Demands concerning Article 25 of the Constitution and incidental matters” Shri Ram Vilas Paswan a member, again sought to raise the matter. The Minister of Home Affairs then state as follows:—

“It was because the agitation there was to start on the 2nd of April. Parliament was closed on Saturday and Sunday. Therefore, I had to issue this statement so that they had an opportunity to withdraw the agitation”.

The matter was, thereafter, treated as closed.

591

LOK SABHA
(1985)

Point of privilege

Making of an important announcement by the Prime Minister outside the House while the House was in session.

Facts of the case and ruling by the Speaker

On 16th August, 1985, Prof. Madhu Dandavate, a member gave notice of a question of privilege against the Prime Minister (Shri Rajiv Gandhi) for allegedly making an announcement regarding Assam accord outside the House when the House was in session while addressing the nation on 15th August, 1985.

2. On the same day Prof. Dandavate sought to raise the matter in the House and stated on a point of order as follows:—

“I rise on a point of order. Before the hon. Home Minister makes a statement regarding Assam first let me make it clear that I am not going into the merits of the case. I welcome the steps that they have taken and the statement that is likely to be made.

I only wish to bring to your notice, Sir, that the entire text of this Memorandum of Settlement has appeared in the Press—apart from the announcement that was made in the Red Fort, because there he only made the statement that an accord had been arrived at. But pursuant to that, the full text has appeared. And I do not think that this House can be taken so lightly....On 1st of May, 1959. Mr. Feroze Gandhi had got the issue settled on the floor of the House by the Speaker that whatever be the situation, it is always better that when the House is in session important policy pronouncement must come before the House. And therefore I only request the Home Minister that in future this should be avoided and I request you to see that the dignity of the House is maintained. This is not a ritual. This is the right of the House, and the dignity of the House.”

3. The Speaker (Dr. Bal Ram Jakhar) then observed as follows:—

“I only have to add this—because he has not raised as a matter of privilege—he has just pointed out certain things. But this was a very special case. I was there at the Red Fort function yesterday. At 2.45 A.M. the agreement was reached. And it was a very good sort of news for the whole nation. And I think the Prime Minister would have failed in his duty to report to the supreme body that is the whole nation....I have also gathered that this was not released by the Government. I have ascertained from the Home Minister that it was not released. The full text was not released by the Government. And if it had been done then I would have taken notice of that.”

592

LOK SABHA
(1985)

Point of privilege

Making of policy announcements by a Minister outside the House while the House was in session.

Facts of the case and ruling by the Speaker

On 16th August 1985, the Speaker (Dr. Bal Ram Jakhar) observed, as follows:—

"On 13 August 1985 Prof. Madhu Dandavate gave notice of a question of privilege against the Minister of Finance and Commerce, Shri Vishwanath Pratap Singh for allegedly making policy announcements outside the House on 10th August, 1985 regarding steps to boost exports in response to demands by representatives of trade and industry at an open House discussion.

The Minister of Finance in his comments has *inter alia* stated that, 'Open House discussions have no fixed agenda and representatives of industry and trade are free to raise any point that they deem appropriate. Commerce Minister thereafter responds to some of the points raised during the discussion. This is not a forum for making policy announcements. This is a forum primarily for taking administrative decisions which can be taken on the spot'. He has also stated that the announcements made by him were either within the framework of existing policies or dealt with ongoing schemes or related to 'purely administrative and procedural matters within the competence of various authorities.'

It is well established that no privilege of the House is involved if statements on matters of public interest are not first made in the House. It is however, a matter of propriety that when the House is in session, so far as possible, important decisions should first be announced in the House. If for some reason, like the House not being sitting on that date and important development taking place between the sittings of the House and necessitating a public announcement, earliest opportunity should be taken to bring the whole matter to the notice of the House.

I feel that in the present case (1) No breach of privilege of the House is involved. (2) It would have however, been more appropriate if the

relevant announcements were first made in the House. This was particularly important because these involved financial implications. (3) In any case earliest opportunity should have been taken to inform the House fully in regard to these matters.

I would urge the Hon. Ministers to take care that these aspects are kept in view in future."

593

LOK SABHA
(1988)

Point of privilege

Making of policy announcement by a Minister outside the House while the House was in session

Facts of the case and ruling by the Speaker

On 7th March, 1988, Prof. Madhu Dandavate and Sarvashri S. Jaipal Reddy and Basudeb Acharia, MPs, gave separate notices of question of privilege against the Minister of Home Affairs (Shri Buta Singh) for making a policy announcement regarding the dissolution of the Punjab Legislative Assembly outside the House when the House was in session. When the members sought to raise the matter in the House on the same day, the Speaker (Dr. B.R. Jakhar) observed as follows:—

"I have received three notices of privilege on the ... issue from Professor Madhu Dandavate, Shri S. Jaipal Reddy and Shri Basudeb Acharia. Proclamations under article 356 and orders thereunder can be issued even while Parliament is in session. The only requirement is that the proclamation has to be laid on the Table of the House at the earliest opportunity. There is nothing in article 356 or elsewhere in the Constitution which enjoins upon the President to consult Parliament when it is in session before issuing the proclamation. No breach of privilege is, therefore, involved and the notices of breach of privilege are disallowed. However, it is well established that when Parliament is in session, policy decisions must first be announced on the floor of the House. It is a matter of judgement whether the present decision amounts to a policy decision. I do feel that when Parliament is in session, it would have been more desirable to take the House into confidence and inform it of the proposed action, instead of the members knowing of the important development only

through the newspapers. I mention it as a matter of propriety and hope that in future such decisions would be first announced on the floor of the House."

594
LOK SABHA
(1990)

Point of Privilege

Making of an important announcement by the Prime Minister outside the House while the House was in session.

Facts of the case and ruling by the Speaker

On 2nd May, 1990, the Speaker (Shri Rabi Ray) observed follows:—

"Shri P. Chidambaram has given notice of a question of privilege regarding an announcement made by the Prime Minister (Shri Vishwanath Pratap Singh) outside the House when the House is in session.

The Prime Minister is reported to have made an announcement regarding the proposed setting up of a new Para-Military Organisation known as 'National Rifles'.

It is well established that no privilege of Parliament is involved if statements on matters of public interest are not first made in the House and are made outside. Such actions may go against conventions and propriety but do not constitute any basis on which breaches of privilege can be founded.

There have been several instances in the past when such matters were sought to be raised in the House as questions of privilege. It was held by successive Speakers that no question of privilege was involved in such matters.

In 1959, when a question of privilege was sought to be raised against the Minister of Defence for making an important policy statement regarding the expansion of NCC, Speaker Ayyangar observed as follows:—

"I am clear in my mind that there is no breach of privilege in this matter.

Even if a matter of policy were to be announced outside the House while the House is in session, it was ruled in the House of commons that there was no breach of privilege; it may be a breach of courtesy. When the House is in session all matters of policy ought

to be announced first to the House. That is the rule that has been adopted for several years in this House also'.

Similarly in 1985, my predecessor, Dr. Bal Ram Jakhar, had held that:—

'It is well established that no privilege of the House is involved if statements on matters of public interest are not first made in the House. It is, however, a matter of propriety that when the House is in session, so far as possible, important decisions should first be announced in the House. If for some reason, like the House not being sitting on that date and important development taking place between the sittings of the House and necessitating a public announcement, earliest opportunity should be taken to bring the whole matter to the notice of the House.'

I, therefore, withhold my consent to the raising of the matter on the floor of the House as a question of privilege.

I would, however, like to reiterate that it is a matter of propriety that when the House is in session, so far as possible, important decisions should first be announced in the House."

595
LOK SABHA
(1990)

Point of Privilege

Making of an alleged policy statement by Prime Minister outside the House while the House was in session.

Facts of the case and ruling by the Speaker

On 27th August, 1990, Prof. K.V. Thomas, a member, in his notice of question of privilege against the Prime Minister (Shri Vishwanath Pratap Singh) alleged that the statement made by the Prime Minister after the Question Hour on 27th August, 1990 regarding 'decision' of the Government to reserve 5—10% of jobs in Government services for people belonging to economically weaker sections and for providing more job opportunities for the youth, was made public through the AIR, TV and newspapers by the Government prior to its announcement in the House.

Prof. Thomas contended that this was a contempt of the House, as any policy statement; or policy proposal has to be first made in the House before

announcing to the public, when the House is in session.

On the same day, when Shri Vasant Sathe, another member sought to raise the matter in the House, the Prime Minister clarified that the said announcement was merely a proposal and not a policy decision.

2. On 28th August, 1990, Sarvashri Vasant Sathe, P.C. Thomas and Era Anbarasu, members, also gave notices of question of privilege against the Prime Minister (Shri Vishwanath Pratap Singh) on the same subject.

On the same day, Shri Vasant Sathe sought to raise the matter in the House with the permission of the Speaker and stated *inter alia* as follows:—

“Sir, there is a healthy convention and a tradition in this House started right from the beginning and I would like to quote the rulings of your learned predecessors when the matter was brought to their notice by senior members of the House like Shri Indrajit Guptaji, Shri Dandavateji and others.... I have raised it because as a convention—this House also goes by healthy conventions—it has been held repeatedly, right from the beginning of our Parliament, that any such statement made outside is an act of impropriety and Government or Ministers should not do it....Sir, my submission is this. Yesterday, the Prime Minister gave a statement. Sir, that statement—nearly verbatim—has appeared in the newspapers earlier. Sir, the decision was taken by the Political Affairs Committee, presided over by the Prime Minister and, Sir it was announced on the Television which is the medium under the Government in those very terms that were later on quoted. Sir, what is the sanctity? When the news came the next day, that was absolutely quoted. Sir, I would beg of you that just to play with a word here and say that it is not our policy but a proposal has no meaning. It is a proposal as also a policy. Therefore, I would like you, Sir, kindly to give a ruling that this is a breach of healthy precedent, well-established conventions and kindly ask the Government not to do this. In fact, I would have requested the Prime Minister to express regret to this House. That being so, if the Government tries to justify this, I feel that the House is reduced to a rubber stamp and a mockery.”

3. The Speaker (Shri Rabi Ray) then observed as follows:—

“It is well-established that no privilege of the House is involved if statements on matters of public interest are not first made in the House and are made outside. In the instant case, I find that the Prime Minister has taken the first opportunity to inform the House about Government’s proposal to reserve 5-10% of jobs in Government services for people belonging to economically weaker sections and for providing more job opportunities for the youth.

Hence, no question of privilege is involved. The notices given under Rule 222 by Sarvashri K.V. Thomas, Vasant Sathe, P.C. Thomas and Era Anbarasu are out of order.”

596
RAJYA SABHA
(1970)

Point of privilege

Alleged making of policy statement outside the House while the House was in session.

Facts of the case and ruling by the Speaker

On the 10th August, 1970, when the Deputy Minister in the Ministry of Industrial Development and Internal Trade (Shri M. R. Krishna) rose to make a statement regarding the manufacture of cars in the public sector, Shri Raj Narain a member, interrupted him saying that the statement had already appeared in the newspapers and thus a breach of privilege of the House had been committed. He requested the Deputy Chairman, (Shri B. D. Khobragade), who was in the Chair, to refer the matter to the Committee of Privileges.

2. The Deputy Chairman asked the Deputy Minister as to how his statement had been published in the press, before it was made in the House. The Leader of the House (Shri K. K. Shah) stated that it was only an intelligent guess work by the press and was not due to any fault on the part of Government.

3. After some discussion, the Deputy Chairman, disallowing the question of privilege observed *inter alia* as follows:—

“Now the question has been raised in this House that whatever statement that the hon. Minister has made and is making today in this House has already appeared in the press.

Normally it is the practice that when the Houses

are in session, the hon. Ministers or the Government should make all policy statement in the House.

It is highly improper that such statements should be made outside the House. But the main question is whether, the hon. Minister has really made such an official statement outside the House... There is nothing to show that the statement was officially issued to the Press by the Minister or the Ministry.

If it can be shown that it was deliberately and officially published by the Minister or by the officials of the Ministry then it is really a serious question. Of course when the press people give such information it is really a compliment to their intelligence and ingenuity that they are in a position to get such information. But howsoever ingenious and intelligent the press people might be, it is the responsibility of the Government also to maintain Secrecy of such important decisions. The Government cannot be absolved of its responsibility to maintain secrecy in all such important matters. This is not the first time that the question has been raised in this House. I do not want to cast any aspersion or I do not want to suggest that some responsible persons might have leaked out the information but I can only say this much that it is really the responsibility of the Government to see that such important decisions do not appear in the press and I hope the Government would take every precaution to maintain the secrecy of such important documents and decisions.

So far as parliamentary practice is concerned if any information regarding important policy matters or policy decisions appears in the press, it is decided that this does not amount to any breach of privilege of the House. I mean, there are a number of authorities mentioned in the book. It has been mentioned that it is a sort of highly improper thing that such a thing the press should issue or such information should be leaked out in the press before it is given to the House. If it is published in the press before giving it to the House, it may amount to a highly improper thing....

Therefore, if any information has leaked out to the press before coming to the House,

according to the procedure, of course, it can never be a breach of privilege but it is highly improper thing. It may amount to breach of courtesy but not breach of privilege. Therefore, no question of breach of privilege is involved."

597

RAJYA SABHA
(1970)

Point of privilege

Alleged making of a policy statement outside the House when the House is in session.

Facts of the case and ruling by the Chairman

On the 18th August, 1970 when the Minister of Industrial Development and Internal Trade (Shri Dinesh Singh) was to make a statement regarding manufacture of scooters in the country, Shri Loknath Misra, a member sought to raise a question of privilege alleging that the statement had already appeared in the press before it had been made in the House. He contended that in view of the fact that Government had been admonished four or five times by the Chair during that session in such cases, it was a case of contempt of the House.

2. Replying to the allegation, the Minister of Industrial Development and Internal Trade stated *inter alia* as under:—

"The hon. members have raised this question and said that there was some policy decision which has been leaked out to the press. May I say that this decision was taken last October and it was known to the press, to everybody in the country What I am trying to say is that this decision was taken last October and as I read the statement, you will see that there is no question of any policy decision having been leaked out. I took the earliest opportunity of informing the House because it is a matter in which the House will be very greatly interested. What we have done is really implementation of the recommendations of the Committee. The policy decision was really taken last October and therefore, there is no leakage of any policy as such."

3. The Vice Chairman (Shri Akbar Ali Khan), who was then in the Chair, reserved his ruling till the next day.

4. On the 19th August, 1970, disallowing the question of privilege, the Vice-Chairman ruled *inter alia* as under:—

"Some honourable members raised a question about the publication of news item in yesterdays *Statesman* and *Times of India* regarding the scooter project. The objection was that it was an important matter of policy and that it should have been placed in Parliament before it was released to the press. They further contended that it was a breach of privilege and contempt of the House. I have looked into the facts of the case. The contention of the honourable Minister for Industrial Development is that the policy matter had already been decided in October, 1969 and that this is, however, an amplification of certain details. He further stated that the news was not released from his Ministry. I have gone through the cases regarding breach of privilege and contempt of the House. It is true that the policy declaration was made in October, 1969, and the statement given yesterday is an explanation of further details regarding the same matter. I think this publication is more due to the intelligent guesses that appear in newspapers which are always alert and imaginative. Though it does not constitute a breach of privilege or contempt of the House, yet, I think it would be proper if further vigilance is kept so that such things do not recur and the Government is more careful in such matters."

598

RAJYA SABHA
(1974)

Point of privilege

Making of an important announcement by Government outside the House when it was in Session.

Facts of the case and ruling by the Chairman

On the 4th March, 1974, Shri Lal K. Advani, a member raised the point that the Government has made an important announcement regarding increase in the prices of petroleum products outside the House while the House was in session. Shri Advani contended that it was an established practice that whether the House was in session, all important decision taken by Government should be announced first in the House. He further stated that by making the said announcement, the Government had acted in

mala fide manner and had tried to by-pass the House and had shown discourtesy to the House.

2. The Chairman (Shri G.S. Pathak) informed the House *inter alia* as follows:—

".....First I received a letter from Shri Borooah informing me that the Government has arrived at a decision regarding the raising of the price of petrol. In that letter he said that he wanted to make a statement in the House but 2nd and 3rd were holidays and therefore he could not make the statement and he might be permitted to make statement on Monday. That permission I gave him. He is making a statement in the House in accordance with the permission.

Now, so far as any alleged default on his part is concerned, I may inform the House that I am taking the view that he is not at default because as soon as the Government arrived at a decision, he informed me the Chairman of this House. The House was not sitting at that time and there were two holidays, and today he is making the statement."

3. After some discussion on the matter the Minister of Petroleum and Chemicals (Shri D.K. Borooah) stated *inter alia* as follows:—

"In this case, the question is how was this announced? It was not really announcement. It was implemented. With your permission, I may read out from a note which I had prepared in answer to what Mr. Advani has raised, that there was if not a legal contempt but certainly a constructive contempt of the House. I may tell you that such a thing was farthest from my mind. I have had long innings in Parliamentary procedure including for a period as a Speaker. Therefore, I would have been the last person to do such a thing. The point which has been raised is something different. It is an administrative point of view. It is an administrative matter which has to be looked from that point of view.

It is likely that the hon. Members will raise the question of revision of prices and try to establish that a contempt of Parliament has been committed. Notices to this effect have already been received. There is indeed a well-established and a very appropriate convention that decisions on major Government matters of policy should be announced in Parliament when it is in session rather than in the ordinary course. However, for compelling reasons of

raising the price of petroleum the decisions had to be taken after fullest deliberation and in utmost secrecy. Past experience has shown that any leakage of the revisions would result in a massive run on stocks leading even to law and order problems at the retail outlets. As it has been the expectation that the oil prices would be revised with the Budget, there have been persistent reports of wide-spread stocking or hoarding of petroleum products. If the matter were to be handled by making an announcement in Parliament, even a few minutes before normal closing time, namely 6 P.M., the prices would have to be enforced from midnight and in a relatively short period of five hours."

4. The matter was thereafter closed.

(599)

RAJYA SABHA
(1979)

Point of privilege

Reported statement by Prime Minister about abolition of the House

For details of the case please see summary No. 176 at p. 317 ante.

(600)

RAJYA SABHA
(1980)

Point of privilege

Announcement outside the House about the constitution of Press Commission while the House was in Session

Facts of the case and ruling by the Chairman

On 19th June, 1980 the Chairman (Shri M. Hidayatullah) informed the House as follows:—

".....Mr.(L.K.) Advani has raised the question that there is an announcement about the Press Commission outside while Parliament is in session and that the House should have been taken into confidence over this matter. I have on a previous occasion said that if there is any important announcement to be made by the Government, they should make it in the House when the House is in session, as early as possible. I hope this will be followed in future.....If there is a policy statement, the Minister should not make it outside the House."

The matter was, thereafter, closed.

601

RAJYA SABHA
(1985)

Point of privilege

Alleged making of certain policy announcements by a Minister outside the House while the House was in session

Facts of the case and ruling by the Chairman

On 19th August, 1985, the Chairman (Shri R. Venkataraman) observed as follows:—

"On August 12, 1985, Shri Lal K. Advani raised with my permission, a question of breach of propriety allegedly committed by the Minister of Finance and Commerce, Shri Vishwanath Pratap Singh, by making certain policy announcements outside the House on Saturday, the 10th August, 1985, when the House was in session. Shri Advani referred to the various rulings from the Chair and the established convention and practice in this behalf. Shri M.S. Gurupadaswamy also lent support to the contention of Shri Advani saying that the particular announcements of the Minister outside the House were important policy statements.

Shri Vishwanath Pratap Singh, thereafter, clarified, the position. He stated that the two important announcements—one regarding abolition of minimum export price (MEP) on tea and the other regarding the extension of the International Prices Reimbursement Scheme (IPRS) to certain other alloys did not amount to Policy Statements. He, contended that these were administrative decisions. Insofar as abolition of MEP on tea was concerned, he stated that it was an administrative decision taken to respond to the international market situation. So far as the IPRS was concerned, it had earlier been adopted as a matter of policy, and its extension to other alloy steels was an administrative decision, and not a policy decision. The Minister stated that there was no impropriety in making those announcements outside the House.

Subsequently I received a detailed note from the Minister giving the background as well as the gist of announcements made. It appears that the Commerce Minister held open House discussions with the representatives of trade and industry on the 10th August, 1985, in New

Delhi. There was no fixed agenda and the representatives of trade and industry were free to raise any points that they deemed appropriate. As per the practice, the Commerce Minister was to respond to some of the points raised during the discussions on the spot. I am given to understand that open House discussion is not a forum for making major policy announcements. It is a forum primarily for taking administrative action on the spot. The Minister announced his decisions on several points such as abolition of MEP on tea, extension of IPRS to alloys steel, etc., creation of separate Export Promotion Council for electronic goods and computer software, creation of a separate division in the Ministry of Commerce to take care of services sector, constitution of a task force to review the duty drawback, reduction of bonding charges of export oriented units, etc. These are in the nature of removing procedural irritants and bottlenecks in the export endeavour.

It is now well established that no privilege of the House is involved if statements on matters of public interest are not made first in the House. However, it is a breach of propriety for a Minister to make a policy statement outside the House of Parliament while it is in session. *Kaul and Shakhder* in the volume 'Practice and Procedure in Parliament' have correctly summarised the rulings in both Houses of Parliament in the following words:

'It has also been held that policy statements should first be made on the floor of the House, when the House is in session, before releasing them to the Press or the Public. But Ministers cannot be prohibited from making statements outside

the House if such statements are not contrary to the declared policy of the Government.'

The question at issue is whether the announcements made by the Minister for Finance and Commerce either amount to an announcement of a new policy, change in policy or are contrary to declared policy. Taking the announcement of abolition of MEP on tea, it may be noted there was a change in the effective rate of duties to cope with the trends in external markets and no question of policy is involved in it. Similarly the extension of IPRS to a few more commodities, does not involve any question of policy. I, therefore, rule that there has been no breach of accepted proprieties involved in the announcements made by the Minister for Finance and Commerce in the open House discussion.

The Minister further contended that these were administrative decisions and that, therefore no breach of propriety was involved in the case. Such a broad proposition is not warranted by the earlier rulings of Parliament.

It is conceivable that some administrative decisions may involve either a change or infringement of an existing policy and may have to be made first in the House. It is not necessary to rule on this point as I have already held that the impugned announcements by the Minister of Finance and Commerce are not statements of policy.

For the foregoing reasons I hold no breach of propriety is involved in the announcements made by the Minister for Finance and Commerce outside the House on 10 August, 1985."

TELEPHONE TAPPING

602

LOK SABHA

(1960)

Point of privilege

Alleged tapping of telephone of a Member.

Facts of the case and ruling by the Speaker

On the 29th April 1960, the Speaker (Shri M.A. Ayyangar) informed the House that he had received notice of a question of privilege from Shri Braj Raj Singh, a member, stating that his telephone was being tapped for the last two days and the members suspected that that was being done to prevent the satyagraha which the Socialist Party was about to start.

The Speaker then observed as follows:—

"Hon. members are aware that it has been said repeatedly, both in England and here, that except in the discharge of their duties, for which they have some privileges here, members ought not to claim any special privileges outside which an ordinary citizen does not have. If the same thing had happened with respect to any ordinary citizen, it could not be brought up here as a breach of privilege; those things may be taken up with the Government in other ways. Therefore, I refuse to give my consent."

603

LOK SABHA

(1981)

Point of privilege

Alleged censoring of mail and tapping of telephones of members

For details of the case please see summary No. 93 at pp. 166 ante.

604

RAJYA SABHA

(1957)

Point of privilege

Alleged tapping of telephone of a Member.

Facts of the case and ruling by the Chairman

On the 16th December, 1957, Shri Bhupesh Gupta, a member, raised a question of privilege stating that his telephone conversations were being tapped and it

had become impossible for him to function as a member of Parliament. He requested that the matter might be referred to the Committee of Privileges.

2. Shri B.K.P. Sinha, another member, said that the point that the telephone was being tapped had first of all to be satisfactorily established and thereafter only the question of privilege could arise.

3. The Chairman ruled that there was no motion of breach of privilege at the stage and added that he would send the matter to the Minister-in-charge first.

4. On the 20th December, 1957, the Minister of Home Affairs (Pandit Govind Ballabh Pant), made a statement in the House that he had had enquiries made from every quarter that could, possibly have any knowledge of any tapping and he was assured that there was no warrant or basis for the allegation. The only provision of law under which such tapping could be done was Section 5 read with Section 3(1) of the Indian Telegraph Act. Under it, the authority to give any direction for interception of any message was the Central Government or a State Government or an officer specially authorised by them in that behalf. His enquiries showed that none of those authorities had given any such instructions to any person to intercept any message on Shri Bhupesh Gupta's telephone.

5. Shri Bhupesh Gupta, however continued to urge that the matter should be referred to the Committee of Privileges and a proper enquiry held into the allegations made.

6. The Minister of Home Affairs replied that he could not see any occasion for an enquiry. If any such tapping had been done, he would have readily accepted it and put a stop to that practice.

7. The Chairman observed as follows:—

"He (The Minister of Home Affairs) says that no telephone can be tapped without the authority of either the Central Government or the State Government or the authorities authorised for the purpose. He has made enquiries of the Central Government, the State Governments and the authorities who were empowered to do that and all the three have disclaimed that they issued any such order to tap your telephone."

8. The Matter was, thereafter, closed.

VISITORS—CARRYING OF EXPLOSIVES, ARMS OR FIREARMS BY

605
LOK SABHA
(1974)

Point of privilege

Shouting of slogans from the Visitors' Gallery and carrying pistols and explosives on his person

Facts of the case and action taken by the House

On the 11th April, 1974 at about 14.20 hours, a person calling himself Ratan Chandra Gupta shouted slogans from the Visitors' Gallery. He was immediately overpowered by the Watch and Ward Staff and removed from the Visitors' Gallery.

2. Later in the day the Minister of Parliamentary Affairs (Shri K. Raghu Ramaiah) informed the House, *inter alia*, as follows:—

"Today at about 2.20 P.M., a visitor, who was issued a pass in the name of Shri Ratan Chandra Gupta, came up to the gate of the Public Gallery after getting his pass checked at the checking post. When Shri Ratan Chandra Gupta, who was last in the queue, saw that the passes were being checked he broke the queue and made a dash inside the Public Gallery.... and started shouting slogans. He was immediately overpowered by the Watch and Ward and Security Staff and brought outside the Gallery.

When Shri Ratan Chandra Gupta was brought into the room of the Assistant Watch and Ward Officer, he immediately took out a pistol and fired in his chest. As a result of this, he sustained a superficial wound on the chest.

On close search, two pistols and one round object, presumably some explosive, some currency notes and pamphlets were recovered from him.

The doctor on duty in the First Aid Post was called and he rendered him first aid. He said that he has not received any serious injury."

3. The Minister of Parliamentary Affairs then moved the following motion:—

"This House resolves that the person calling himself Ratan Chandra Gupta who shouted slogans from the Visitors' Gallery of the House at 14.24 hours today and whom the Watch and Ward Officer took into custody immediately and on search of whose person two pistols, one object which looks like a bomb and some pamphlets were found, has committed a grave offence and is guilty of the contempt of this House:

This House further resolves that without prejudice to any other action¹ to which he may be liable under the law, Ratan Chandra Gupta be sentenced to rigorous imprisonment till 6 P.M. on the 10th May, 1974, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

4. Shri Madhu Limaye, a member moved an amendment that the second paragraph of the above motion might be substituted by the following:—

"This House, while reserving its rights to punish the said person for contempt, resolves to remand him to Tihar Central Jail till 17th April, 1974, to enable the Speaker or persons nominated by him to make a fuller enquiry into the incident."

Shri Samar Guha another member, moved the following amendment:—

"In the first paragraph delete the words 'resolves... this House' and substitute 'is informed of the fact that a person calling himself Ratan Chandra Gupta who shouted slogans from the Visitors' Gallery of the House at 14.24 hours today and whom the Watch and Ward Officer took into custody immediately and on search of whose person two pistols, one object which looks like a bomb and some pamphlets were found'.

¹Shri Ratan Chandra Gupta was convicted and sentenced to furnish surety bonds of Rs. 500/500/- for one year u/s 309 I.P.C. sec. 5 Indian Explosive Substances Act and 25/26/27/55/59 Arms Act under the Probation Offenders Act by the Court Of Shri M.K. Chawala Addl. Session Judge, Delhi on 21-3-1975 (vide F.I.R. No. 813/74 u/s 20/26/27/54/59 Arms Act in Police Station, Parliament Street)

In the second paragraph delete the words further resolves...New Delhi and read as below:—

'resolves that the said young man be sent to police custody till 16 April for further investigation about his conduct and thereafter he be brought before the House for taking decision about the alleged contempt of the House committed by him.'

5. After some discussion, the amendments moved by Sarvashri Madhu Limaye and Samar Guha were negatived and the original motion moved by the Minister of Parliamentary Affairs (*See* para 3 above) was adopted by the House.

6. In pursuance of the above decision of the House the Speaker (Dr. G.S. Dhillon) issued a Warrant of Commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi requiring him to take into custody the said Ratan Chandra Gupta and to keep him safely in the Central Jail, Tihar, New Delhi, till 6 p.m. on Friday, the 10th May, 1974.

606

LOK SABHA

(1974)

Point of privilege

Carrying of a dagger by a visitor on his person and assault by him on an official of the House while attempting to enter the Visitors' Gallery

For details of the case please *see* summary No. 372 at pp. 531 *ante*.

607

LOK SABHA

(1974)

Point of privilege

Carrying of explosives and dagger by a visitor and assault by him on an official of the House while attempting to enter the Visitors' Gallery

For details of the case please *see* summary No. 373 at pp. 532 *ante*.

VISITORS—SHOUTING OF SLOGANS AND THROWING OF LEAFLETS BY

608

LOK SABHA

(1967)

Point of privilege

Throwing of pamphlets by a person from Visitor's Gallery on the Floor of the House

Facts of the case and action taken by the House

On the 15th December, 1967, at 5.5 P.M. when the House was discussing an adjournment motion, a person in the Visitors' Gallery shouted some slogans and threw some pamphlets on the floor of the House. He was removed from the Visitors' Gallery by the Watch and Ward Staff and shortly thereafter, the Minister of Paliamentary Affairs (Dr. Ram Subhag Singh) moved the following motion which was unanimously adopted by the House:—

"This House resolves that the person calling himself Shri Inder Dev Singh who threw pamphlets from the Visitor's Gallery on the floor of the House at 5.5 P.M. today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that he be sentenced to simple imprisonment till 6 P.M. on the 16th December, 1967 and sent to Tihar Jail, Delhi."

2. In pursuance of the above resolution, the following warrant of commitment, addressed to the Superintendent, Central Jail, Tihar, Delhi, was issued by the Speaker.

"WARRANT OF COMMITMENT

WHEREAS THE Lok Sabha has adopted the following motion today the 15th December, 1967:—

"This House resolves that the person calling himself Shri Inder Dev Singh who threw pamphlets from the Visitors' Gallery on the Floor of the House at 5.5 P.M. today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be sentenced to simple imprisonment till 6 P.M. on the 16th December, 1967, and sent to Tihar Jail, Delhi."

NOW, therefore, I, N. Sanjiva Reddy Speaker, Lok Sabha in pursuance of the above decision of the Lok Sabha by this Warrant of Commitment require

the Superintendent, Central Jail, Tihar to take into custody the said Shri Inder Dev Singh and to keep him safely in the Central Jail, Tihar, till 6 P.M. on the 16th December, 1967.

Herein fail not.

Given under my hand at New Delhi, this 15th day of December, 1967.

N. SANJIVA REDDY
Speaker, Lok Sabha

SEAL

To

The Superintendent,
Central Jail, Tihar,
Delhi.,

3. Shri Inder Dev Singh, was, accordingly, taken by the Watch and Ward Staff to, and lodged in the Central Jail, Tihar, Delhi, where he served his sentence of imprisonment.

609

LOK SABHA

(1968)

Point of privilege

Shouting of slogans in the Visitors Gallery

Facts of the case and action taken by the House

On the 29th August 1968, at about 12.35 hours, when a member was making a statement about his motion regarding Kutch Award, two girls, in the Visitors' Gallery shouted some slogans. They were immediately removed from the Visitors' Gallery by the Watch and Ward Staff.

2. After the lunch recess, Shri Nath Pai, a member drew the attention of the Chair to the incident and complained that one of the two girls was manhandled and dragged by the Security staff when she was being removed from the Visitors' Gallery. He requested that a statement might be made as to what transpired and why that girl received such a treatment.

3. At 19.20 hours the Chairman (Shri M. Thirumala Rao) informed the House:

"Today at about 12.35 hours, two visitors, namely, Kumari Praveena Dave and Kumari Veena Vora who had been issued Public Gallery cards on the recommendation of Shri T. M. Sheth M.P. disturbed the proceedings of the House by raising slogans. They were immediately prevented from doing so by two members of the

Watch and Ward staff on duty nearby, but they refused to listen and continued shouting slogans. In the meantime two lady members of Watch and Ward staff intervened, but instead of listening to their requests, Kumari Veena Vora became violent and bit the wrist of one of lady members of Watch and Ward staff. She also bit the hand of one of the Watch and Ward Assistants. She lay herself on the ground and continued shouting slogans. As a last resort she was bodily lifted and brought out of the gallery. Kumari Praveena Dave, walked out of the gallery voluntarily without resistance. In their statements which were recorded in the presence of Shri T. M. Sheth, M.P., neither Kumari Praveena Dave nor Kumari Veena Vora made any allegation regarding manhandling on the part of Watch and Ward staff.

Kumari Praveena and Kumari Vora were let off at about 4 P.M."

610

LOK SABHA
(1968)

Point of privilege

Throwing papers from Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On the 15th November, 1968, at 3 P.M., when the House was about to divide on a motion regarding the Central Industrial Security Force Bill 1968 and the Division Bell was ringing, a person from the Visitors Gallery threw some papers on the Floor of the House. He was immediately removed from the Visitors' Gallery by the Watch and Ward Staff. Some time thereafter, the Minister of Parliamentary Affairs (Dr. Ram Subhag Singh) moved the following motion which was unanimously adopted by the House:—

"This House resolve that the person calling himself Shri Gopal Tripathi who threw some papers from the Visitors Gallery on the Floor of the House at 3 P.M. today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be sentenced to simple imprisonment till 6 P.M. on the 18th November, 1968 and sent to Tihar Jail Delhi."

2. In pursuance of the above resolution, the

following warrant of commitment addressed to the Superintendent, Central Jail, Tihar, Delhi was issued by the Speaker:

"WARRANT OF COMMITMENT

WHEREAS the Lok Sabha has adopted the following motion today, the 15th November, 1968:—

"This House resolves that the person calling himself Shri Gopal Tripathi who threw some papers from the Visitors' Gallery on the Floor of the House at 3 P.M. today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

The House further resolves that he be sentenced to simple imprisonment till 6 P.M. on the 18th November, 1968 and sent to Tihar Jail, Delhi."

NOW, therefore, I, N. Sanjiva Reddy, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Warrant of Commitment require the Superintendent, Central Jail, Tihar to take into custody the said Shri Gopal Tripathi and to keep him safely in the Central Jail, Tihar, till 6 P.M. on the 18th November, 1968.

Herein fail not.

Given under my hand and seal at New Delhi this 15th day of November, 1968.

SEAL

Sd/-

(N. Sanjiva Reddy),
Speaker, Lok Sabha.

To

The Superintendent,
Central Jail, Tihar,
Delhi.

3. Shri Gopal Tripathi was, accordingly, taken by the Watch and Ward staff to, and lodged in the Central Jail, Tihar, Delhi where he served out his sentence of imprisonment.

611

LOK SABHA
(1969)

Point of privilege

Throwing of pamphlets from the Visitors' Gallery on the Floor of the House

Facts of the case and action taken by the House

On the 9th April, 1969 at 2.23 P.M., when the House was discussing the Demands for Grants

relating to the Ministry of Food, Agriculture, Community Development and Cooperation, two persons threw some pamphlets from the Visitors' Gallery on the Floor of the House. They were immediately removed from the Visitors' Gallery by the Watch & Ward staff. Some time thereafter, the Minister of Parliamentary Affairs (Shri K. Raghuramaiah) moved the following motion:

"This House resolves that the two persons calling themselves (1) Shri Rambir Singh and (2) Shri Dharendra Kumar Sharma, who threw pamphlets from the Visitors' Gallery on the Floor of the House at 2.23 P.M. today and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 7 P.M. on Friday, the 11th April, 1969, and sent to Tihar Jail, Delhi."

2. Some members pleaded for leniency in sentence even though they added that the reduced sentence might not be treated as a precedent. The Minister of Parliamentary Affairs (Shri K. Raghuramaiah) agreed to reduce the sentence to one day and moved the motion, as amended, in the following form, which was adopted by the House:

"This House resolves that the two persons calling themselves (1) Shri Rambir Singh and (2) Shri Dharendra Kumar Sharma, who threw pamphlets from the Visitors' Gallery on the Floor of the House at 2.23 P.M. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 7 P.M. on Thursday, the 10th April, 1969 and sent to Tihar Jail, Delhi."

3. In pursuance of the above motion adopted by the House the following Warrant of Commitment, addressed to the Superintendent, Central Jail Tihar, Delhi was issued by the Speaker:—

"WARRANT OF COMMITMENT

WHEREAS the Lok Sabha adopted the following motion today the 9th April, 1969:—

"This House resolved that the two persons calling themselves (1) Shri Rambir Singh and (2) Shri Dharendra Kumar Sharma, who threw pamphlets from the Visitors' Gallery on the Floor of the House at 2.23 P.M. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 7 P.M. on Thursday, the 10th April, 1969 and sent to Tihar Jail, Delhi."

Now therefore, I, N. Sanjiva Reddy, Speaker, Lok Sabha in pursuance of the above decision of the Lok Sabha by this Warrant of Commitment require the Superintendent, Central Jail, Tihar to take into custody the said (1) Shri Rambir Singh and (2) Shri Dharendra Kumar Sharma and to keep them safely in the Central Jail, Tihar till 7 P.M., on Thursday, the 10th April, 1969.

Herein fail not.

Given under my hand and seal at New Delhi this 9th day of April, 1969.

Sd/-

SEAL

(N. Sanjiva Reddy),
Speaker, Lok Sabha.

To

The Superintendent,
Central Jail, Tihar,
Delhi.

4. Shri Rambir Singh and Shri Dharendra Kumar Sharma were, accordingly, taken by the Watch & Ward staff to and lodged in the Central Jail, Tihar, Delhi, where they served their sentence of imprisonment.

612

LOK SABHA
(1969)

Point of privilege

Throwing of leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On the 13th December, 1969, at 12.25 hours when the House was discussing the Bihar Land Reforms Laws (Regulating Mines and Minerals) Validation Bill, 1969, three persons from the Visitors' Gallery threw some leaflets on the floor of the House. They were immediately taken into custody and removed from the Visitors' Gallery by the Watch & Ward Staff. After sometime on the same day, the Minister of Parliamentary Affairs (Shri K. Raghuramaiah) moved the following motion which was adopted by the House:—

"This House resolves that the persons calling themselves (1) Shri Tarachand C. Shah (2) Shri Krishna P. Patil and (3) Shri Gulabrao R. Deshmukh, who threw some leaflets from the Visitors Gallery on the floor of the House at 12.25 p.m. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 6 p.m. on Saturday, the 20th December, 1969 and sent to Tihar Jail, Delhi."

2. In pursuance of the above motion adopted by the House, the following Warrant of Commitment, addressed to the Superintendent, Central Jail, Tihar, Delhi was issued by the Deputy Speaker:—

WHEREAS the Lok Sabha adopted the following motion today, the 13th December, 1969:—

"This House resolves that the persons calling themselves (1) Shri Tarachand C. Shah (2) Shri Krishna P. Patil and (3) Shri Gulabrao R. Deshmukh, who threw some leaflets from the Visitors' Gallery on the floor of the House at 12.25 p.m. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced

to simple imprisonment till 6 p.m. on Saturday, the 20th December, 1969, and sent to Tihar Jail, Delhi:

NOW, therefore, I, G. G. Swell, Deputy Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha by this Warrant of Commitment require the Superintendent, Central Jail, Tihar, to take into custody the said (1) Shri Tarachand C. Shah, (2) Shri Krishna P. Patil and (3) Shri Gulabrao R. Deshmukh, and to keep them safely in the Central Jail, Tihar, till 6 p.m. on Saturday, the 20th December, 1969.

Herein fail not.

Given under my hand at New Delhi, this 13th day of December, 1969.

Sd/- G. G. SWELL,

Deputy Speaker.

To

The Superintendent,

Central Jail, Tihar, Delhi.

3. Sarvashri Tarachand C. Shah, Krishna P. Patil and Gulabrao R. Deshmukh, were accordingly, taken by the Watch and Ward Staff to and lodged in, the Central Jail, Tihar, Delhi to serve their sentence of imprisonment.

4. On the 18th December, 1969, Shri Nath Pai. M.P., raised question of granting remission in the sentence of imprisonment awarded to the three persons who had thrown leaflets on the floor of the House from the Visitors' Gallery on the 13th December, 1969. The Minister of Parliamentary Affairs (Shri K. Raghuramaiah) thereupon moved the following motion which was adopted by the House:—

"This House resolves that the sentence of imprisonment awarded by this House on the 13th December, 1969, to the persons calling themselves (1) Shri Tarachand C. Shah, (2) Shri Krishna P. Patil and (3) Shri Gulabrao R. Deshmukh for having thrown leaflets in the House from the Visitors' Gallery and thereby having committed contempt of the House, be reduced to the imprisonment already undergone and they be released at 4 p.m. today."

5. In pursuance of the above motion adopted by

the House the following Order of Release, addressed to the Superintendent, Central Jail, Tihar, Delhi, was issued by the Speaker:—

WHEREAS the Lok Sabha adopted the following motion today, the 18th December, 1969:—

'This House resolves that the sentence of imprisonment awarded by this House on the 13th December, 1969 to the persons calling themselves (1) Shri Tarachand C. Shah, (2) Shri Krishna P. Patil and (3) Shri Gulabrao R. Deshmukh for having thrown leaflets in the House from the Visitors' Gallery and thereby having committed contempt of the House, be reduced to the imprisonment already undergone and they be released at 4 p.m. today.'

NOW, therefore, I.G.S. Dhillon, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Order of Release require the Superintendent, Central Jail, Tihar, New Delhi to release the said (1) Shri Tarachand C. Shah, (2) Shri Krishna P. Patil and (3) Shri Gulabrao R. Deshmukh at 4 p.m. today, the 18th December, 1969.

Given under my hand and seal at New Delhi, this 18th day of December, 1969.

Sd/—G.S. DHILLON,
Speaker.

To

The Superintendent,

Central Jail, Tihar, Delhi."

6. Sarvashri Tarachand C. Shah, Krishna P. Patil and Gulabrao R. Deshmukh were, accordingly, released from the Central Jail, Tihar, Delhi at 4 p.m., on the 18th December, 1969.

613

LOK SABHA

(1970)

Point of privilege

Shouting slogans from the Visitors' Gallery.

Facts of the case and action taken by the House

On the 31st August, 1970, at 12.45 hours, two persons namely Swami Yogeshwara Nand Giri and Shri Raj Kumar Jain raised some slogans from the Visitors' Gallery of the House. They were immediately taken into custody and removed from the Visitors' Gallery by the Watch and Ward Staff. After some time, on the same day, the Minister of

Parliamentary Affairs (Shri K. Raghuramaiah) moved the following motion which was adopted by the House:—

"This House resolves that the persons calling themselves (1) Swami Yogeshwara Nand Giri and (2) Shri Raj Kumar Jain, who raised slogans from the Visitors' Gallery at 12.45 p.m. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 6 p.m. on Tuesday, the 1st September, 1970 and sent to Tihar Jail, Delhi."

2. In pursuance of the above motion adopted by the House, the following Warrant of Commitment, addressed to the Superintendent, Central Jail, Tihar, Delhi, was issued by the Speaker:—

"WARRANT OF COMMITMENT

Whereas the Lok Sabha adopted the following motion today, the 31st August, 1970:—

"This House resolves that the persons calling themselves (1) Swami Yogeshwara Nand Giri and (2) Shri Raj Kumar Jain, who raised slogans from the Visitors' Gallery at 12.45 p.m. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 6 P.M. on Tuesday, the 1st September, 1970 and sent to Tihar Jail, Delhi."

Now, therefore, I.G.S. Dhillon, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Warrant of Commitment, require the Superintendent, Central Jail, Tihar, to take into custody the said (1) Swami Yogeshwara Nand Giri and (2) Shri Raj Kumar Jain, and to keep them safely in the Central Jail, Tihar, till 6 p.m. on Tuesday, the 1st September, 1970.

Herein fail not.

Given under my hand and seal at New Delhi, this 31st day of August, 1970.

Sd/—

G.S. DHILLON,
Speaker.

To,
The Superintendent,
Central Jail, Tihar,
New Delhi."

3. Swami Yogeshwara Nand Giri and Shri Raj Kumar Jain were, accordingly taken by the Watch and Ward Staff to and lodged in, the Central Jail, Tihar, Delhi, where they served out their sentence of imprisonment.

614

LOK SABHA
(1972)

Point of privilege

Shouting slogans and throwing leaflets from the Visitors' Gallery on the floor of the House.

Facts of the case and action taken by the House

On the 9th August, 1972, at 15.05 hours when the House was discussing the Disturbed Areas (Special Courts) Bill, 1972 two persons from the Visitors' Gallery shouted slogans and threw some leaflets on the floor of the House. They were immediately taken into custody and removed from the Visitors' Gallery by the Watch and Ward staff. After some time on the same day, the Minister of Parliamentary Affairs (Shri Raj Bahadur) moved the following motion which was adopted by the House:—

"This House resolves that the persons calling themselves (1) Siphai Rai and (2) Ram Janam Singh who shouted and threw some leaflets from the Visitors' Gallery on the floor of the House at 15.05 hours today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House."

This House further resolves that they be sentenced to simple imprisonment till 5 P.M. on Tuesday, the 10th August, 1972 and sent to Tihar Jail. Delhi.

2. In pursuance of the above motion, the following Warrant of Commitment, addressed to the Superintendent, Central Jail, Tihar, Delhi was issued by the Speaker:—

"Whereas the Lok Sabha adopted the following motion today, the 9th August, 1972:—

"This House resolves that the persons calling themselves (1) Siphai Rai and (2) Ram Janam

Singh who shouted and threw some leaflets from the Visitors' Gallery on the floor of the House at 15.05 hours today and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 5 p.m. on Thursday, the 10th August, 1972, and sent to Tihar Jail, Delhi.'

Now, therefore, I, G.S. Dhillon, Speaker. Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Warrant of Commitment, require, the Superintendent, Central Jail, Tihar, to take into custody the said (1) Siphai Rai and (2) Ram Janam Singh and to keep them safely in the Central Jail, Tihar, till 5 P.M. on Thursday, the 10th August, 1972.

Herein fail not.

Given under my hand and seal at New Delhi this 9th day of August, 1972.

Sd/- G.S. Dhillon,
Speaker.
(SEAL)

To
The Superintendent,
Central Jail, Tihar,
New Delhi."

3. Sarvashri Siphai Rai and Ram Janam Singh were accordingly, taken by the Watch and Ward Staff to, and lodged in the Central Jail, Tihar, Delhi, where they served out their sentence of imprisonment.

615
LOK SABHA
(1973)

Point of privilege

Throwing of leaflets from the Visitors Gallery on the floor of the House.

Facts of the case and action taken by the House

On the 23rd July, 1973 at 12.35 hours a person threw some leaflets from the Visitors Gallery on the Floor of the House. He was immediately taken into custody by the Watch and Ward Officer and removed

from the Visitors' Gallery. After some time, on the same day, the Minister of Parliamentary Affairs (Shri K. Raghuramaiah) moved the following motion:—

"This House resolves that the person calling himself Tanaji Kamble who threw some leaflets from the Visitors' Gallery on the Floor of the House at 12.35 hours today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be sentenced to simple imprisonment till 5 p.m. on Thursday, the 26th July, 1973 and sent to the Central Jail, Tihar, New Delhi."

2. When some members wanted to know about the contents of the leaflets the Speaker (Dr. G. S. Dhillon) observed:—

"Whatever may be written in them, good or bad. This is not the question. But throwing of leaflets like this is against the dignity of the House. It is a bad thing, this should not be thrown like this. The very fact that it was thrown into the House is contempt of the House.

However, pleasant or unpleasant the contents may be the act of throwing it into the House is contempt of the House."

3. Shri Madhu Limaye, a member, suggested that the person concerned be heard before taking any decision in the matter. Some other members opposed this suggestion as they felt that if a precedent of hearing such a person, who had committed the offence in the very presence of the House, was set up, many people will resort to this kind of offence, actuated by a desire to speak before the House.

The House divided and the motion (See para 1 above) was adopted by 74 votes to 11.

4. In pursuance of the above decision of the House the Speaker issued the following warrant of commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi:—

"Whereas the Lok Sabha adopted the following motion today, 23rd July, 1973:—

"This House resolves that the person calling himself Tanaji Kamble who threw some leaflets from the Visitors' Gallery on the floor of the House at 12.35 hours today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House."

This House further resolves that he be sentenced to simple imprisonment till 5 P.M. on Thursday 26 July, 1973 and sent to the Central Jail, Tihar, New Delhi."

Now, therefore, I, G. S. Dhillon, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Warrant of Commitment, require the Superintendent, Central Jail, Tihar, New Delhi, to take into custody the said Tanaji Kamble and to keep him safely in the Central Jail, Tihar, New Delhi, till 5 p.m. on Thursday, the 26th July, 1973.

Herein fail not.

Given under my hand and seal at New Delhi This 23rd July, 1973.

Sd/-
(G.S. Dhillon)
Speaker."

5. Shri Tanaji Kamble was, accordingly, taken by the Watch and Ward Staff to and lodged in the Central Jail, Tihar, Delhi.

6. On the 24th July, 1973, Shri Jyotirmoy Bosu, a member moved the following motion:—

"That Rule 338 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion regarding reduction of the sentence of imprisonment awarded to Tanaji Kamble, by the House on the 23rd July, 1973, be suspended."

"This House resolves that the sentence of imprisonment awarded by this House on the 23rd July, 1973 to the person calling himself Tanaji Kamble for having thrown leaflets in the House from the Visitors' Gallery and thereby having committed contempt of the House, be reduced to simple imprisonment till 10 a.m. on Wednesday, the 25th July, 1973."

7. The Speaker thereupon, observed as follows:—

"Before this matter was brought to the House he (accused) was approached, but he refused to give any statement. He would not talk to anybody. Then he was examined by a doctor and every limb was found to be normal his brain was normal his heart was normal but in spite of that he refused to give any statement. What to talk of expressing regrets, he refused even to talk to our staff."

8. The Minister of Parliamentary Affairs (Shri K. Raghuramaiah) stated *inter alia* as follows:—

"It is the duty of every citizen of this country and every member of this hon. House to maintain dignity and decorum of the House. I had a talk with the other Leaders of the opposition this morning. Shri Vajpayee for instance, agrees with me that in a matter like this where not even an apology has been tendered where no new situation has arisen, it would be most improper to reduce it..."

9. Shri Atal Bihari Vajpayee then said that the accused tendered an apology, the imprisonment which he had already undergone might be treated as enough but when he has not offered any apology, the question of reducing the sentence did not arise.

10. Shri Jyotirmoy Bosu then withdrew his motion by leave of the House.

616.

LOK SABHA
(1973)

Point of privilege

Shouting of slogans and attempt to throw leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On the 21st December, 1973, at 12.02 hours, two persons shouted slogans and attempted to throw some leaflets from the Visitors' Gallery on the Floor of the House. They were immediately taken into custody by the Watch and Ward Officer and removed from the Visitors' Gallery. Later in the day, the Minister of Parliamentary Affairs (Shri K. Raghuramaiah) moved the following motion:—

"This House resolves that the persons calling themselves Shyam Charan and Ram Murti Pandey who shouted from the Visitors' Gallery and attempted to throw some leaflets from there on the Floor of the House at 12.02 hours today and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 6 P.M. on the 22nd December, 1973 and sent to Central Jail, Tihar, New Delhi."

2. Shri Jyotirmoy Bosu, a member moved the following amendment to the above motion:—

"That the persons involved be set free at once."

After some discussion the amendment was put to vote and negatived.

3. The motion moved by the Minister of Parliamentary Affairs (See para 1 above) was then put to vote and adopted.

4. In pursuance of the above decision of the House, the Speaker issued the following warrant of commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi:—

'Whereas the Lok Sabha adopted the following motion today, the 21st December, 1973:—

'This House resolves that the persons calling themselves Shyam Charan and Ram Murti Pandey who shouted from the Visitors' Gallery and attempted to throw some leaflets from there on the Floor of the House at 12.02 hours today and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be sentenced to simple imprisonment till 6 P.M. on the 22nd December, 1973 and sent to Central Jail, Tihar, New Delhi.'

Now, therefore, I, G. S. Dhillon, Speaker, Lok Sabha, in pursuance of the above decision of Lok Sabha, by this Warrant of Commitment require the Superintendent, Central Jail, Tihar, New Delhi to take into custody the said Shyam Charan and Ram Murti Pandey and to keep them safely in the Central Jail, Tihar, New Delhi, till 6 P.M. on Saturday, the 22nd December, 1973.

Herein fail not.

Given under my hand seal at New Delhi, this 21st December, 1973.

Sd/-
(G.S. DHILLON)
Speaker.

5. Shri Shyam Charan and Ram Murti Pandey were accordingly taken by the Watch and Ward Staff to, and lodged in the Central Jail, Tihar, Delhi where they served out their sentence of imprisonment.

617

LOK SABHA

(1974)

Point of privilege

Shouting of slogans from the Visitor's Gallery and carrying pistols and explosives on his person

For details of the case pl. see. summary No 605 at pp. 757-58 ante.

618

LOK SABHA

(1974)

Point of privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery.

Facts of the case and action taken by the House

On the 6th September, 1974, at about 13.52 hours a person calling himself Amrit Lal Sharma shouted slogans and threw leaflets from the Visitors' Gallery. He was immediately taken into custody by the Watch and Ward Officer.

2. Later in the day, the Speaker (Dr. G. S. Dhillon) informed the House *inter alia* as follows:—

“Today at about 1.52 p.m. a visitor by the name of Amrit Lal Sharma who came to the Public Gallery.....threw pamphlets in the House and shouted slogan *Inquilab Zindabad*.

He was immediately apprehended and brought out of the Gallery. On interrogation, he said that his name is Amrit Lal Sharma, S/o Shri Harbans Lal Sharma and resident of F-38, Vishnu Garden, near Tilak Nagar, New Delhi. At present he is working as a conductor in Delhi Tourist Transport Cooperative Society. His grievance is that he had applied for admission in Film and Television Institute, Poona for acting course but he did not get admission. He therefore, demonstrated against the policy of the Ministry of Information and Broadcasting for not admitting eligible candidates in the Poona Institute.

The said visitor calling himself Amrit Lal Sharma has committed a grave offence and is guilty of the contempt of this House. I bring it to the notice of the House for such action as the House may deem fit.”

3. Thereupon, the Minister of Parliamentary Affairs (Shri K. Raghu Ramaiah) moved the following motion which was adopted by the House:—

“This House resolves that the person calling himself Amrit Lal Sharma, who threw some leaflets from the Visitors' Gallery on the floor of the House and shouted slogans at 13.52 hours today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be sentenced to rigorous imprisonment till 6 P.M. on Monday, 9 September, 1974, and sent to the Central Jail, Tihar, New Delhi.”

4. In pursuance of the above decision of the House, the Speaker issued a Warrant of Commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi, requiring him to take into custody the said Amrit Lal Sharma and to keep him safely in the Central Jail, Tihar, New Delhi, till 6 P.M. on Monday, the 9th September, 1974.

619

LOK SABHA

(1975)

Point of privilege

Shouting of slogans and attempt to throw leaflets, from the Visitors' Gallery on the Floor of the House

Facts of the case and action taken by the House

On the 6th March, 1975, at 12.02 hours, three persons shouted slogans and attempted to throw some leaflets from the Visitors' Gallery on the floor of the House and assaulted the Watch and Ward staff on duty in the Visitors' Gallery. They were immediately taken into custody by the Watch and Ward Officer and removed from the Visitors' Gallery. Later in the day, the Chairman (Shri Vasant Sathe) informed in the House:—

“I have to inform the House that today, at about 12.02 p.m., three visitors calling themselves Pema Wangyal, son of Shri Karma, Tsering Chopel, son of Shri Chokhondup and Ven N.C. Gyatso, son of the late Shri Wangyal, shouted slogans from the Visitors' Gallery, threw some cyclostyled copies of pamphlets which fell in the Gallery and when intercepted by Watch and Ward staff on duty, they gave some kicks and blows to the

Watch and Ward staff on duty. They were immediately removed from the Gallery and taken into custody by the Watch and Ward Officer. This is a serious matter. I bring it to the notice of the House for such action as the House may deem fit."

2. Thereupon, the Minister of Parliamentary affairs (Shri K. Raghu Ramaiah) moved the following motion in the House:—

"This House resolves that the persons calling themselves Pema Wangyal son of Shri Karma, Tsering Chopel son of Shri Chokdhondup and Ven N. C. Gyatso son of Late Shri Wangyal who shouted from the Visitors' Gallery, attempted to throw some leaflets from there on the floor of the House and assaulted the Watch and Ward staff on duty in the Visitors' Gallery at 12.02 hours today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that without prejudice to any other action to which they may be liable under the law. The said Pema Wangyal, Tsering Chopel and Ven N. C. Gyatso be sentenced to rigorous imprisonment till 6 P.M. on Wednesday, the 19th March, 1975, for the aforesaid contempt of the House and sent to Central Jail, New Delhi."

3. Shri S.M. Banerjee, a member moved the following amendment to the above motion:—

"That instead of the punishment suggested by the Minister of Parliamentary Affairs to these three young boys, they should be given a chance to improve themselves, to believe in parliamentary democracy and they should be warned not to do it in future."

4. The amendment moved by Shri Banerjee was negatived by the House and the motion (See para 2 above) moved by the Minister of Parliamentary Affairs was adopted by the House.

5. In pursuance of the above decision of the House, the Speaker issued a Warrant of Commitment addressed to the Superintendent, Central Jail, Tihar, New Delhi, requiring him to take into custody the said Pema Wangyal son of Shri Karma, Tsering Chopel son of Shri Chokdhondup and Ven N. C. Gyatso son of Late Shri Wangyal, and to keep them

safely in the Central Jail, Tihar, New Delhi, till 6 P.M. on Wednesday, the 19th March, 1975.

6. Sarvashri Pema Wangyal, Tsering Chopel and Ven N. C. Gyatso were accordingly, taken by the Watch and Ward Staff to, and lodged in, the Central Jail, Tihar, New Delhi, where they served out their sentence of imprisonment.

620

LOK SABHA

(1977)

Point of Privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On the 14th November, 1977, at about 12.35 hours, two persons calling themselves Suresh Maluji Sawant and Kanchan Ubale shouted slogans and threw some leaflets from the Visitors' Gallery on the floor of the House. They were immediately taken into custody by the Watch and Ward staff and removed from the Visitors' Gallery. Later in the day, the Deputy Speaker (Shri Godey Murahari) informed the House as under:—

"As the House is aware, at about 12.35 p.m. today, two visitors threw some leaflets from the Visitors' Gallery on the floor of the House and disturbed the proceedings of the House by shouting from the Visitors' Gallery. The Watch and Ward Officer took them into custody immediately and interrogated them. The report of the Watch and Ward Officer is as follows:—

"Today, at about 12.35 P.M., two visitors holding Visitors' Gallery Passes Nos. 33034 and 33035 issued on the same day in the names of Shri S. N. Singh and Shri V.G. Gaikwad through Shri Bapu Kaldate and Shrimati A. Rangnekar, Members of Parliament shouted slogans from the Public Gallery.

The visitors were immediately apprehended by the Watch and Ward staff and brought out of the Gallery.

On interrogation it was revealed that the visitors had misused the Visitors' Gallery passes. One of the visitors, namely, Shri Suresh Maluji Sawant misused the pass issued in the name of Shri S. N. Singh. The other visitor, Shri Kanchan Ubale, misused the pass issued in favour of Shri V. G. Gaikwad.

Shri Suresh Maluji Sawant in his statement has stated that he alongwith his friend Shri Kanchan Ubale arrived in Delhi from Bombay on the night of 12th November, 1977. On the 13th November, 1977, Shri Suresh Maluji Sawant met Shrimati A. Rangnekar, M.P., at her residence and requested her for two passes to see Lok Sabha Session. Shrimati A. Rangnekar, M.P. told him to come to the Reception Office of Parliament on the morning of the 14th November, 1977. Accordingly, Shri Suresh Maluji Sawant alongwith Shri Kanchan Ubale reached the Reception Office at about 11 A.M. After sometime, Shrimati A. Rangnekar, M.P. personally came there and handed over two passes to Shri Suresh Maluji Sawant. The passes were in the names of Shri S.N. Singh and V.G. Gaikwad.

Shri Sawant kept the card issued in the name of Shri S. N. Singh with him and gave the other card issued in the name of Shri V. G. Gaikwad to Shri Kanchan Ubale. Since the passes were valid from 12 Noon, they entered the Parliament House at 12 Noon and after sometime, got into the Gallery. They watched the proceedings of the House for about half an hour and at about 12.35 P.M., they got up and shouted slogans and tried to throw some pamphlets concealed on their person. They were intercepted by Watch and Ward staff and brought out of the Gallery.

Shri Kanchan Ubale has also given a similar statement, but has denied having met Shrimati A. Rangnekar, M.P. on the 13th or on the 14th November, 1977. The pass was handed over to him by Shri Sawant.

The demands of these two youths belonging to Yuvak Republican are contained in the pamphlets which they wanted to throw on the floor of the House and also distribute it to Members of Parliament.

The visitors have committed a serious offence by impersonation and also by shouting slogans from the Gallery.

The said visitors calling themselves Suresh Maluji Sawant and Kanchan Ubale have committed grave offences and are guilty of the contempt of this House. I bring it to the notice of the House for such action as the House may deem fit.

2. The Minister of State in the Ministry of Labour and Parliamentary Affairs (Shri Larang Sai) then moved the following motion, which was adopted by the House:—

“This House resolves that the persons calling themselves Suresh Maluji Sawant S/o Shri Maluji Bandu Sawant and Shri Kanchan Ubale S/o Shri Jhipa who shouted from the Visitors' Gallery and threw some leaflets from there on the Floor of the House at 12.35 hrs. today and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that without prejudice to any other action to which they may be liable under the law, the said Shri Suresh Maluji Sawant and Shri Kanchan Ubale be sentenced to imprisonment till 6 P.M. on Tuesday, the 15th November, 1977 for the aforesaid contempt of the House, and sent to Central Jail, Tihar, New Delhi.”

3. In pursuance of the above decision of the House, the Speaker (Shri K. S. Hedge) issued a Warrant of Commitment in respect of both the persons concerned, addressed to the Superintendent, Central Jail, Tihar, New Delhi, requiring him to take them into custody and to keep them safely in the Central Jail, Tihar, New Delhi, till 6 P.M. on Tuesday, the 15th November, 1977.

621

LOK SABHA

(1977)

Point of privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On the 20th December, 1977, at about 12.40 hours, a person calling himself Bhagwan Bux Singh shouted slogans from the Visitors' Gallery. He was immediately removed from the Visitors' Gallery by the Watch and Ward staff. Later in the day, the Speaker informed the House as follows:—

“As the House is aware, one person, who has given his name as Shri Bhagwan Bux Singh, who is a Lecturer in Modern Vocational Inter College, Lucknow, shouted some slogans from the Visitors' Gallery at about 12.40 P.M. today. He was immediately removed from the Gallery by the Watch and Ward staff and interrogated.

In a written statement, he has expressed his regret for his behaviour and for shouting slogans from the Visitors' Gallery and requested that he might be excused for his action.

If the House agrees, his regret may be accepted and he may be let off with a warning."

2. The House agreed and he was later let off with a warning.

622

LOK SABHA
(1977)

Point of privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On the 23rd December, 1977, at about 12.40 hours, a person calling himself Suresh Singh shouted slogans and threw leaflets from the Visitors' Gallery on the floor of the House. He was immediately removed from the Visitor's Gallery by the Watch and Ward staff. Later in the day, the Speaker (Shri K.S. Hegde) informed the House as follows:—

"As the House is aware, one person, who has given his name as Suresh Singh, who is a student of B.A. Final of Gorakhpur University shouted some slogans and threw leaflets from the Visitors' Gallery at about 12.40 p.m. today. He was immediately removed from the Gallery by the Watch and Ward staff and interrogated. He has made a written statement but not expressed regret for his action.

As today is the last day of the session, if the House agrees, he may be kept in the custody of the Watch and Ward Officer till the rising of the House today and thereafter released with a warning."

2. Shri Jyotirmoy Bosu, a member, moved that the person concerned be released forthwith.

3. After a brief discussion, the House decided that he be let off with a warning.

623

LOK SABHA
(1978)

Point of privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On the 15th May, 1978, at about 16.30 hours, a person calling himself Sailendra Kumar Mishra *alias* Suresh Kumar shouted slogans and threw leaflets from the Visitors' Gallery on the floor of the House. He was immediately removed from the Visitors' Gallery by the Watch and Ward staff. Before the adjournment of the House on that day, the Speaker (Shri K.S. Hedge) informed the House as follows:—

"There was some disturbance caused by somebody on some local grievance I am told. We have let him off with some warning."

624

LOK SABHA
(1978)

Point of privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On the 16th August, 1978, at about 15.55 hours, two persons calling themselves Shri Radhe Shyam Verma and Shri Ram Kumar Sharma, shouted slogans from the Visitors' Gallery. They were immediately removed from the Visitors' Gallery by the Watch and Ward staff. Later in the day, the Speaker informed the House as follows:—

"....today at about 3.55 p.m. two visitors calling themselves Shri Radhe Shyam Verma and Shri Ram Kumar Sharma, shouted from the Visitors' Gallery. The Watch and Ward Officer took them into custody immediately and interrogated them. Both of them have stated that they are students and they have expressed their regret for their action. They are being let off"

2. The House agreed and both of them were later let off.

625

LOK SABHA
(1978)

Point of privilege

Shouting of slogans and causing obstruction within the precincts of the House

For details of the case please see summary No. 366 at pp. 526 ante.

626

**LOK SABHA
(1979)**

Point of Privilege

Throwing of papers from the Visitors' Gallery on floor of the House.

Facts of the case and action taken by the House

On the 6th March, 1979, at about 12.25 hours two persons calling themselves Swami Ananda Bharati and Gururaj threw some papers from the Visitors' Gallery on the floor of the House. They were immediately taken into custody and removed from Visitors' Gallery by the Watch and Ward staff. Before the adjournment of the House on that day, the Chairman (Shri N.K. Shejwalwar) informed the House as follows:—

"As the House is aware, at about 12.25 P.M. today, two visitors who have disclosed their names as Swami Ananda Bharati and Shri Gururaj threw some papers from Visitors' Gallery on the floor of the House. The Watch and Ward Officer took them into custody immediately and interrogated them. The visitors have made written statements but not expressed regret for their action.

I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of Parliamentary Affairs and Labour (Shri Ravindra Varma), then moved the following motion, which was adopted by the House:—

"This House resolves that the persons calling themselves Swami Ananda Bharati S/o Shri Venkannacharya and Gururaj S/o Shri Advi Rao, who threw some papers from the Visitors' Gallery on the floor of the House at about 12.25 hours today and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be kept in the custody of the Watch and Ward Officer till the rising of the House today and thereafter released with a warning."

3. Swami Ananda Bharati and Gururaj were let off with a warning after the rising of the House.

627

**LOK SABHA
(1980)**

Point of Privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On 11th March, 1980, at 14.45 hours, three persons calling themselves Harbans Singh, Kailash Chander Bharti and Nand Ram shouted slogans and threw some leaflets from the Visitors' Gallery on the floor of the House. They were immediately taken into custody by the Watch and Ward staff and removed from the Visitors' Gallery.

2. Later in the day, the Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

"As the House is aware, at 14.45 hours today, 3 visitors calling themselves Harbans Singh, Kailash Chander Bharti and Nand Ram threw some papers from the Visitors' Gallery on the floor of the House and shouted slogans. The Watch and Ward Officer took them into custody and immediately interrogated them. The visitors have made statements, but have not expressed any regret for their action.

I bring this to the notice of the House of such action as it may deem fit."

3. Immediately thereafter, the Minister of State for Parliamentary Affairs (Shri P. Venkatasubbaiah) moved the following motion:—

"This House resolves that the persons calling themselves Harbans Singh, Kailash Chander Bharti and Nand Ram who threw some leaflets from the Visitors' Gallery and shouted slogans at 2.45 p.m. today and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be kept in the custody of the Watch and Ward Officer till the rising of the House today, and thereafter, released with a stern warning."

4. After some discussion, the Minister of State for Parliamentary Affairs moved an amended motion as follows which was adopted by the House:—

"This House resolves that the persons calling themselves Harbans Singh, Kailash Chander Bharti and Nand Ram who threw some leaflets from

the Visitors' Gallery and shouted slogans at 2.45 p.m. today and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be let off with a stern warning."

5. The contemnors were accordingly let off with a stern warning.

628

LOK SABHA

(1981)

Point of Privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 28th August, 1981, the Chairman (Shri Chintamani Panigrahi) informed the House as follows:—

"As the House is aware, at about 15.50 hours today, six visitors calling themselves Vijay Pal Singh Ram Mehar, Bhim Singh, Kurdiya, Rishan Singh and Jai Kavar shouted slogans from the Visitors' Gallery. The Watch and Ward Officer took them into custody immediately and interrogated them. The visitors have made statements, but have not expressed any regret for their action.

I bring this to the notice of the House for such action as it may deem fit."

2. The Minister of State in the Department of Parliamentary Affairs (Shri P. Venkatasubbaiah) moved the following motion which was adopted by the House:—

"This House resolves that the persons calling themselves Vijay Pal Singh, Ram Mehar, Bhim Singh, Kurdiya, Rishan Singh and Jai Kavar who shouted slogans at about 3.50 P.M. today from the Visitors' Gallery and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be let off with a stern warning on the rising of the House today."

The matter was, thereafter, closed.

629

LOK SABHA

(1981)

Point of Privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery on the floor of the House.

Facts of the case and action taken by the House

On 15th September, 1981, the Deputy Speaker (Shri G. Lakshmanan) informed the House as follows:—

"As the House is aware, at about 11.40 hours today, a visitor calling himself Dudheshwar Roy, son of Shri Brahm Dev, threw some papers from the Visitors' Gallery on the floor of the House and shouted slogans. The Watch and Ward Officer took him into custody immediately and interrogated him. The visitor has made a statement and has expressed regret for his conduct.

I bring this to the notice of the House for such action as it may deem fit."

2. The Minister of State in the Department of Parliamentary Affairs (Shri P. Venkatasubbaiah) moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself Dudheshwar Roy, son of Shri Brahm Dev, who threw some papers from the Visitors' Gallery and shouted slogans at about 11.40 hours today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be let off with a stern warning."

The matter was, thereafter, closed.

630

LOK SABHA

(1981)

Point of Privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 17th September, 1981, the Deputy Speaker (Shri G. Lakshmanan) informed the House as follows:—

“As the House is aware, at about 16.15 hours today, two visitors calling themselves Partap Singh Chaudhary, son of Shri Ram Singh, Sorain and Nafe Singh, son of Shri Prithvi Singh shouted slogans from the Visitors' Gallery. The Watch and Ward Officer took them into custody immediately and interrogated them. The visitors have made statements but have not expressed any regret for their action.

I bring this to the notice of the House for such action as it may deem fit.”

2. The Minister of State in the Department of Parliamentary Affairs (Shri P. Venkatasubbaiah) moved the following motion which was adopted by the House:—

“This House resolves that the persons calling themselves Partap Singh Chaudhary, son of Shri Ram Singh Sorain and Nafe Singh son of Shri Prithvi Singh who shouted slogans at about 16.15 hours today from the Visitors' Gallery and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that they be let off with a stern warning on the rising of the House today.”

The matter was thereafter, closed.

631

**LOK SABHA
(1982)**

Point of Privilege

Shouting of slogans and attempting to throw leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On 18th March, 1982, the Deputy Speaker (Shri G. Lakshmanan) informed the House as follows:—

“As the House is aware, at about 12.35 hours today, Six visitors calling themselves Keshar Sharma, Bhagat Ram Gupta, Anil, Shyam Lal Garg, Mahabir Singh and Ravinder Pal Singh

shouted slogans from the Visitors' Gallery and tried to throw some leaflets on the floor of the House. The Watch & Ward Officer took them into custody immediately and interrogated them. The visitors have made statements but have not expressed any regret for their action.

I bring this to the notice of the House for such action as it may deem fit.”

2. The Minister of State in the Department of Parliamentary Affairs (Shri P. Venkatasubbaiah) moved which following motion:—

“This House resolves that the persons calling themselves Keshar Sharma son of Shri Tej Ram Sharma, Bhagat Ram Gupta son of Shri Ram Kumar Gupta, Anil son of Shri P.C. Mittal, Shyam Lal Garg son of Shri Hazari Lal, Mahabir Singh son of Shri Chandagi Ram and Ravinder Pal Singh son of Shri P.P. Singh, who shouted slogans at about 12.35 hours today from the Visitors' Gallery and attempted to throw some leaflets from there on the floor of the House and whom the Watch and Ward Officer took into custody immediately, have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that the said Keshar Sharma, Bhagat Ram Gupta, Anil, Shyam Lal Garg, Mahabir Singh and Ravinder Pal Singh be sentenced to simple imprisonment till 6 P.M. on Wednesday, the 24th March, 1982, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi.”

3. Shri Suraj Bhan, a member, then moved the following substitute motion which was negated by the House:—

“This House does not approve the slogan shouting and throwing of leaflets in the House today by the outsiders from the visitors gallery and lets them off with warning.”

4. The motion moved by Shri P. Venkatasubbaiah was then put to vote by the Deputy Speaker and adopted by the House.

5. In pursuance of the above motion, the following Warrant of Commitment, addressed to the Superintendent, Central Jail, Tihar, New Delhi was issued by the Speaker and the offenders were sent to the jail:—

"WARRANT OF COMMITMENT"

Whereas the Lok Sabha adopted the following motion today, the 18th March, 1982:—

"This House resolves that the persons calling themselves Keshar Sharma son of Shri Tej Ram Sharma, Bhagat Ram Gupta son of Shri Ram Kumar Gupta, Anil son of Shri P.C. Mittal, Shyam Lal Garg son of Shri Hazari Lal, Mahabir Singh son of Shri Chandagi Ram and Ravinder Pal Singh son of Shri P.P. Singh, who shouted slogans at about 12.25 hours today from the Visitors' Gallery and attempted to throw some leaflets from there on the floor of the House and whom the Watch and Ward Officer took into custody immediately have committed a grave offence and are guilty of the contempt of this House.

This House further resolves that the said Keshar Sharma, Bhagat Ram Gupta, Anil, Shyam Lal Garg, Mahabir Singh and Ravinder Pal Singh be sentenced to simple imprisonment till 6 P.M. on Wednesday, the 24th March, 1982, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

Now, therefore, I, Bal Ram Jakhar, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Warrant of Commitment require the Superintendent, Central Jail, Tihar, New Delhi, to take into custody the said (1) Keshar Sharma, (2) Bhagat Ram Gupta, (3) Anil, (4) Shyam Lal Garg, (5) Mahabir Singh and (6) Ravinder Pal Singh, and to keep them safely in the Central Jail, Tihar, New Delhi, till 6 P.M. on Wednesday, the 24th March, 1982.

Herein fail not.

Given under my hand and seal at New Delhi, this 18th March, 1982.

Sd/-
(BAL RAM JAKHAR),
SPEAKER."

632
LOK SABHA
(1982)

Point of Privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On 5th April, 1982, the Deputy Speaker (Shri G. Lakshmanan) informed the House as follows:—

"As the House is aware, at about 12.25 hours

today a visitor calling himself Dev Dutt Sharma threw some leaflets from the Visitors Gallery on the floor of the House and shouted slogans. The Watch and Ward Officer took him into custody immediately and interrogated him. The visitor has made a statement and has expressed regret for his action.

I bring this to the notice of the House for such action as it may deem fit."

2. The Minister of State in the Department of Parliamentary Affairs (Shri P. Venkatasubbaiah) moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself Dev Dutt Sharma, son of Shri Bishamber Dayal Sharma, who threw some leaflets from the Visitors' Gallery on the floor of the House and shouted slogans at about 12.25 hours today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be kept in the custody of the Watch and Ward Officer till the rising of the House today, and thereafter, released with a stern warning."

633
LOK SABHA
(1982)

Point of Privilege

Throwing of some papers from the Speaker's Gallery on the floor of the House

Facts of the case and action taken by the House

On 28th July, 1982, the Speaker (Dr. Bal Ram Jakhar) observed in the House as follows:—

"As the House is aware, at about 18.20 hours today, a visitor calling himself, Gurdayal Singh son of Shri Madhan Singh threw some papers from the Speaker's Gallery on the floor of the House. The Watch and Ward Officer took him into custody immediately and interrogated him. The visitor has made a statement and has expressed regret for his action.

I bring to the notice of the House for such action as it may deem fit."

2. The Minister of State in the Department of Parliamentary Affairs (Shri P. Venkatasubbaiah) then moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself Gurdayal Singh son of Shri Madhan Singh who therew some papers at about 18.20 hours today from the Speaker's Gallery and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be let off with a stern warning on the rising of the House today."

634

**LOK SABHA
(1983)**

Point of Privilege

Shouting of slogans and throwing of a piece of cloth containing some printed matter thereon from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On 5th April, 1983, the Deputy Speaker (Shri G. Lakshmanan) informed the House as follows:—

"As the House is aware, at about 14.50 hours today a visitor calling himself Ram Sarupson of Shri Gaiinda Lal shouted slogans and threw a piece of cloth containing some printed matter thereon from the Visitors' Gallery on the floor of the House. The Watch and Ward Officer took him into custody immediately and interrogated him. The visitor has made a statement and has expressed regret for his action.

I bring this to the notice of the House for such action as it may deem fit."

2. The Deputy Minister in the Department of Parliamentary Affairs (Shri Mallikarjun) then moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself Ram Sarup son of Shri Gaiinda Lal, who shouted slogans at about 14.50 hours today and threw a piece of cloth containing some printed matter thereon from the Visitors' Gallery on the floor of the House and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

"This House further resolves that he be let off with stern warning on the rising of the House today."

635

**LOK SABHA
(1984)**

Point of Privilege

Trying to shout some slogan from the Visitors' Gallery.

Facts of the case and action taken by the House

On 2nd March, 1982, the Chairman (Dr. Rajendra Kumari Bajpai) observed as follows:—

"As the House is aware, at about 12.13 hours today, a visitor calling himself Ram Saran Dasson of Lala Bhagat Ram tried to shout some slogan from the Visitors' Gallery. The Watch and Ward Officer took him into custody immediately and interrogated him. The visitor has made a statement. But has not expressed any regret for his action.

I bring this to the notice of the House for such action as it may deem fit."

2. The Deputy Minister in the Department of Parliamentary Affairs (Shri Mallikarjun) then moved the following motion which was adopted by the House after some discussion:—

"This House resolves that the person calling himself Ram Saran Dass son of Lala Bhagat Ram who tried to shout some slogan at about 12.13 hours today from the Visitors' Gallery and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

"This House further resolves that the said Ram Saran Dass son of Lala Bhagat Ram be sentenced to simple imprisonment till 6 P.M. on Thursday, the 8th March, 1984, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi."

3. In pursuance of the above decision of the House, the Speaker (Dr. Bal Ram Jakhar) issued the following Warrant of Commitment against the offender, addressed to the Superintendent, Tihar Jail, New Delhi, and the offender was sent to jail:—

WARRANT OF COMMITMENT

Where as the Lok Sabha adopted the following motion today, the 2nd March, 1984:—

“This House resolves that the person calling himself Ram Saran Dass son of Lala Bhagat Ram who tried to shout some slogan at about 12.13 hours today from the Visitors Gallery and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that the said Ram Saran Dass son of Lala Bhagat Ram be sentenced to simple imprisonment till 6 P.M. on Thursday, the 8th March, 1984 for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi.’

Now, therefore, I, Bal Ram Jakhar, Speaker Lok Sabha, in pursuance of the above decision of the Lok Sabha by the Warrant of Commitment require the Superintendent, Central Jail, Tihar, New Delhi, to take into custody the said Ram Saran Dass and to keep him safely in the Central Jail, Tihar New Delhi, till 6 P.M. on Thursday, the 8th March, 1984.

Herein fail not.

Given under my hand and seal at New Delhi, this 2nd day of March, 1984.

Sd/-

(BAL RAM JAKHAR),
Speaker.

To

The Superintendent,
Central Jail, Tihar,
New Delhi.”

636

LOK SABHA
(1984)

Point of Privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 7th May, 1984, the Chairman (Shri Chintamani Panigrahi) informed the House as follows:—

“As the House is aware at about 14.53 hours today, a visitor calling himself Usman Gani, son of Shri Hafiz Mohammed Akbar, shouted some slogans from the Visitors' Gallery. The Watch and Ward Officer took him into custody

immediately and interrogated him. The visitor has made a statement, but has not expressed any regret for his action.

I bring this to the notice of the House for such action as it may deem fit”.

2. The Deputy Minister in the Department of Parliamentary Affairs (Shri Mallikarjun) then moved the following motion which was adopted by the House:—

“This House resolves that the person calling himself Usman Gani, son of Shri Hafiz Mohammed Akbar, who shouted some slogans at about 14.53 hours today from the Visitors' Gallery and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that the said Usman Gani son of Shri Hafiz Mohammed Akbar, be sentenced to simple imprisonment till 6.30 P.M. on Wednesday, the 9th May, 1984, for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi.”

3. In pursuance of the above decision of the House, the Speaker (Dr. Bal Ram Jakhar) issued the following Warrant of Commitment against the offender, addressed to the Superintendent, Tihar Jail, New Delhi, and the offender was sent to jail:—

“WARRANT OF COMMITMENT

WHEREAS the Lok Sabha adopted the following motion today, the 7th May, 1984:

‘This House resolves that the person calling himself Usman Gani, son of Shri Hafiz Mohammed Akbar, who shouted some slogans at about 14.53 hours today from the Visitors' Gallery and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that the said Usman Gani, son of Shri Hafiz Mohammed Akbar, be sentenced to simple imprisonment till 6.30 P.M. on Wednesday, the 9th May, 1984 for the aforesaid contempt of the House and sent to Central Jail, Tihar, New Delhi.

Now, therefore, I, Bal Ram Jakhar, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha by this Warrant of Commitment, require the Superintendent Central Jail, Tihar, New Delhi to

take into custody the said Usman Gani and to keep him safely in the Central Jail, Tihar, New Delhi, till 6.30 P.M. on Wednesday, the 9th May, 1984.

Herein fail not.

Given under my hand and seal at New Delhi, this 7th day of May, 1984.

Sd/
(BAL RAM JAKHAR),
Speaker.

To
The Superintendent
Central Jail, Tihar,
New Delhi".

637
LOK SABHA
(1975)

Point of privilege

Throwing of some papers on the floor of the House and shouting from the Visitors' Gallery

Facts of the case and action taken by the House

On 30th July, 1985, the Deputy Speaker (Shri M. Thambi Durai) observed as follows:—

"As the House is aware, at about 12.00 noon today, a visitor calling himself N. Devasahayam, son of Shri Solomon, threw some papers on the floor of the House and shouted from the Visitors' Gallery. The Watch and Ward Officer took him into custody immediately and interrogated him. The visitor has made a statement and has expressed regret for his action. He has also begged pardon for the same.

I bring this to the notice of the House for such action as it may deem fit."

2. The Minister of Parliamentary Affairs (Shri H.K.L. Bhagat) moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself N. Devashayam, son of Shri Solomon, who threw some papers at about 12.00 noon today on the floor of the House and shouted from the Visitors' Gallery and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that in view of the unqualified regret expressed by him, he be let

off with a stern warning on the rising of the House today."

638

LOK SABHA
(1987)

Point of Privilege

Throwing of some papers on the floor of the House and shouting from the Visitors' Gallery by a visitor

Facts of the case and action taken by the House

On 23rd April, 1987, the Deputy Speaker (Shri Thambi Durai) observed as follows:—

"As the House is aware at about 11.30 hours today, a visitor calling himself Trivender Singh Panwar son of Shri Chandan Singh Panwar threw some papers on the floor of the House and shouted from the Visitors' Gallery. The Watch and Ward Officer took him into custody immediately and interrogated him. The visitor has made a statement and has expressed regret for his action. He has also begged pardon for the same.

I bring this to the notice of the House for such action as it may deem fit."

2. The Minister of State in the Ministry of Parliamentary Affairs (Shrimati Sheila Dikshit) thereupon moved the following motion which was adopted by the House:

"This House resolves that the person calling himself Trivender Singh Panwar son of Shri Chandan Singh Panwar who threw some papers on the floor of the House and shouted from the Visitors' Gallery at about 11.30 hours today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that in view of the regret expressed by him, he be let off with a stern warning on the rising of the House today."

639
LOK SABHA
(1987)

Point of privilege

Shouting from the Visitors' Gallery by a visitor

Facts of the case and action taken by the House

On 23rd November, 1987, the Deputy Speaker (Shri Thambi Durai) observed as follows:—

“As the House is aware at about 11.30 hours today, a visitor calling himself Dhirender Pratap Sharma, son of Shri Suresh Chand Sharma, shouted slogan from the Visitors’ Gallery. The Director, Security, took him into custody immediately and interrogated him. The visitor has made a statement and has expressed regret for his action. He has also begged pardon for the same.

I bring this to the notice of the House for such action as it may deem fit.”

2. The Minister of State in the Ministry of Parliamentary Affairs (Shrimati Sheila Dikshit) thereupon moved the following motion which was adopted by the House:—

“This House resolves that the person calling himself Dhirender Pratap Sharma, son of Shri Suresh Chand Sharma, who shouted slogan from the Visitor’s Gallery at about 11.30 hours today and when the Director, Security, took into custody immediately, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that in view of the regret expressed by him, he is let off with a stern warning on the rising of the House today.”

640

LOK SABHA

(1989)

Point of privilege

Shouting of Slogans from the Visitors’ Gallery

Facts of the case and action taken by the House

On 21st April, 1989, the Deputy Speaker (Shri Thambi Durai) informed the House as follows:—

“As the House is aware, at about 14.40 hours today, a visitor calling himself Dev Singh Rawat, son of Shri Vijay Singh Rawat, shouted slogan from the Visitors’ Gallery. The Director, Security, took him into custody immediately and interrogated

him. The visitor has made a statement but has not expressed regret for his action.

I bring it to the notice of the House for such action as the House may deem fit.”

2. The Deputy Minister in the Ministry of Surface Transport and Deputy Minister in the Ministry of Parliamentary Affairs (Shri P. Namgyal) moved the following motion which was adopted by the House:—

“This House resolves that the person calling himself Dev Singh Rawat, son of Shri Vijay Singh Rawat, who shouted slogan from the Visitors’ Gallery at about 14.40 hours today and whom the Director, Security, took into custody immediately has committed a grave offence and is guilty of the contempt of this House.

This House further resolves that he be kept in the custody of the Director, Security, till the rising of the House today and thereafter released with a stern warning.”

The matter was, thereafter, closed.

641

LOK SABHA

(1989)

Point of privilege

Shouting of Slogans from the Visitors’ Gallery

Facts of the case and action taken by the House

On 18th August, 1989, the Speaker (Shri B.R. Jakhar) informed the House as follows:—

“Hon. members, as the House is aware at about 12.55 hours today, two visitors calling themselves Raj Kumar Vashishth son of Shri Tola Ram Vashishth and Javed Ali Khan son of Shri Nasir Ali Khan shouted slogans from the Visitors’ Gallery. The Director, Security, took them into custody immediately and interrogated them. The visitors have made statements and have expressed regret for their action. They have also begged pardon for the same.

I bring this to the notice of the House for such action as it may deem fit.”

2. The Minister of State in the Ministry of

Parliamentary Affairs and Ministers of State in the Prime Minister's Office (Shrimati Sheila Dikshit) moved the following motion which was adopted by the House:—

"This House resolves that the persons calling themselves Raj Kumar Vashishth son of Shri Tola Ram Vashishth and Javed Ali Khan son of Shri Nasir Ali Khan, who shouted slogans from the Visitors' Gallery at about 12.55 hours today and whom the Director, Security, took into custody immediately, have committed a grave offence, and are guilty of the contempt of the House.

This House further resolves that in view of the regret expressed by them, they be let off with a stern warning on the rising of the House today."

The matter was, thereafter, closed.

642

LOK SABHA
(1990)

Point of Privilege

Shouting of Slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 10th April, 1990, the Deputy Speaker (Shri Shivraj V. Patil) informed the House as follows:—

"As the House is aware at about 12.35 hours today, three visitors calling themselves Ram Kishore Yadav son of Shri Jageshwar Prasad Yadav, Munish Kumar Darbari son of Shri Raghuraj Prakash Darbari and Uday Bhan Srivastava son of Shri Harswaroop Srivastava attempted to shout slogans from the Visitors' Gallery. The Director, Security took them into custody immediately and interrogated them. The visitors have made statements. Munish Kumar Darbari has expressed regret for his action and has also begged pardon for the same. Ram Kishore Yadav and Uday Bhan Srivastava have not expressed any regret for their action.

I bring this to the notice of the House for such action as it may deem fit."

2. The Minister of Information and Broadcasting

and Minister of Parliamentary Affairs (Shri P. Upendra) moved the following motion which was adopted by the House:—

"This House resolves that the persons calling themselves Ram Kishore Yadav son of Shri Jageshwar Prasad Yadav, Munish Kumar Darbari son of Shri Raghuraj Prakash Darbari and Uday Bhan Srivastava son of Shri Harswaroop Srivastava, who attempted to shout slogans from the Visitors' Gallery at about 12.35 hours today and whom the Director, Security, took into custody immediately, have committed a grave offence, and are guilty of the contempt of the House.

This House further resolves that they be let off with a stern warning on the rising of the House today."

The matter was, thereafter closed.

643

LOK SABHA
(1991)

Point of Privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On the 10th January, 1991, the Deputy Speaker (Shri Shivraj V. Patil) informed the House as follows:—

"As the House is aware, at about 11.45 hours today, a visitor calling himself Umesh Choudhary son of Shri Daya Ram Choudhary, shouted slogan from the Visitors' Gallery. The Director, Security, took him into custody immediately and interrogated him. The visitor has made a statement and has apologised for his action.

I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of Petroleum and Chemicals and Minister of Parliamentary Affairs (Shri Satya Prakash Malaviya) moved the following motion which was adopted by the House:—

"That this House resolves that the person calling himself Umesh Choudhary son of Shri Daya Ram Choudhary, who shouted slogan from the Visitors' Gallery at about 11.45 hours today and whom the Director, Security, took into custody immediately,

has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that he be let off with a stern warning on the rising of the House today."

The matter was, thereafter, closed.

644

LOK SABHA
(1994)

Point of privilege

Jumping from the Visitors' Gallery and attempting to shout slogans

Facts of the case and action taken by the House

On 5 May, 1994 the Deputy Speaker (Shri S. Mallikarjunaiah) informed the House as follows:—

"As the House is aware, at about 11.20 hours today, a visitor calling himself Prem Pal Singh Samrat, son of Shri Bajaji Lal, jumped from the Visitors' Gallery and attempted to shout slogans. The Security Officers took him into custody immediately and interrogated him. The visitor has made a statement and expressed regrets for his action.

I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of State in the Ministry of Human Resource Development (Department of Youth Affairs and Sports) and Minister of State in the Ministry of Parliamentary Affairs (Shri Mukul Wasnik) moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself Prem Pal Singh Samrat, son of Shri Bajaji Lal, who jumped from the Visitors' Gallery and attempted to shout slogans at about 11.20 hours today and whom the Security Officers took into custody immediately, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that he be let off with a stern warning on the rising of the House today."

The matter was thereafter closed.

645

LOK SABHA
(1994)

Point of privilege

Shouting of slogans and jumping down from the Visitors' Gallery

Facts of the case and action taken by the House

On 24 August, 1994, the Deputy Speaker (Shri S. Mallikarjunaiah) informed the House as follows:—

"As the House is aware, at about 11.06 hours today, a visitor calling himself Manmohan Singh Tiwari, son of Shri Prag Dutt, shouted slogans from the Visitors' Gallery. Another visitor calling himself Mohan Pathak, son of Shri Hargobind Pathak, jumped down from the Visitors' Gallery and also shouted slogans. The Security Officers took them into custody immediately and interrogated them. The visitors have made statements but have not expressed regrets for their action.

I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of State in the Ministry of Human Resource Development (Department of Youth Affairs and Sports) and Minister of State in the Ministry of Parliamentary Affairs (Shri Mukul Wasnik) moved the following motion which was adopted by the House:—

"This House resolves that the person calling himself Manmohan Singh Tiwari, son of Shri Prag Dutt, who shouted slogans from the Visitors' Gallery and Mohan Pathak, son of Shri Hargobind Pathak, who jumped down from the Visitors' Gallery and also shouted slogans at about 11.06 hours today, and whom the Security Officers took into custody immediately, have committed a grave offence and are guilty of the contempt of the House.

This House further resolves that they be sentenced to rigorous imprisonment till 6.00 P.M. on 26 August, 1994, and sent to Tihar Jail, Delhi."

3. In pursuance of the above motion, the following Warrant of commitment, addressed to the Superintendent, Central Jail, Tihar, New Delhi, was issued by the Speaker:—

WARRANT OF COMMITMENT

"WHEREAS the Lok Sabha adopted the following motion today, the 24th August, 1994:—

"This House resolves that the person calling himself Manmohan Singh Tiwari, son of Shri Prag Dutt, who shouted slogans from the Visitors' Gallery and Mohan Pathak, son of Shri Hargobind Pathak, who jumped down from the Visitors' Gallery and also shouted slogans at about 11.06 hours today, and whom the Security Officers took into custody immediately, have committed a grave offence and are guilty of the contempt of the House.

This House further resolves that they be sentenced to rigorous imprisonment till 6 P.M. on 26 August, 1994 and sent to Tihar Jail, Delhi."

NOW, therefore, I, Shivraj V. Patil, Speaker, Lok Sabha, in pursuance of the above decision of the Lok Sabha, by this Warrant of Commitment require the Superintendent, Central Jail, Tihar New Delhi, to take into custody the said (1) Manmohan Singh Tiwari and (2) Mohan Pathak, and to keep them safely in the Central Jail, Tihar, till 6 P.M. on Friday, the 26th August, 1994.

Herein fail not.

Given under my hand and seal at New Delhi, this 24th day of August, 1994.

Sd/-
SHIVRAJ V. PATIL
Speaker

4. The contemnors were accordingly taken to Central Jail, Tihar, New Delhi, by the Security Officers and handed over to the jail authorities.

646

LOK SABHA
(1995)

Point of privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 20 March, 1995, at about 15.45 hours, nine persons shouted slogans from the visitors' Gallery. They were immediately taken into custody and removed from the Visitors' Gallery by the Security Officers.

As the House was adjourned for the day before the

matter could be brought before it by the Chair, the nine persons who shouted slogans from the Visitors' Gallery were kept in the Parliament House under the custody of Watch & Ward.

2. On 21 March, 1995, the Speaker (Shri Shivraj V. Patil) informed the House as follows:—

"As the House is aware, at about 15.45 hours on 20 March, 1995, the visitors calling themselves Rajendra Sharma, son of Shri Moti Lal Sharma, Afzal Ahmed, son of Shri Ishtiyak Ahmed, Shankar Lal Mehrotra, son of Late Shri Sunder Lal Mehrotra, Mahender Mahuria, son of Shri Ram Sevam Mahuria, Anwar Hussain, son of Late Shri Mohd. Ilyas, Nirmal Misra, son of Shri Ishwar Chand Misra, Pramendra Kumar Dixit, son of Shri Raj Narayan Dixit, Hari Mohan, son of Shri L.C. Vishwakarma and Rajesh Shukla, son of Shri Madhu Sudan Srivastva, attempted to shout slogans from the Visitors' Gallery. The Security Officers took them into custody immediately and interrogated them. The visitors had made statements but had not expressed regrets for their action.

I bring it to the notice of the House for such action as the House may deem fit."

Thereafter, the Minister of Water Resources and Minister of Parliamentary Affairs (Shri Vidyacharan Shukla) moved the following Resolution:—

"This House resolves that the persons calling themselves Rajendra Sharma, son of Shri Moti Lal Sharma, Afzal Ahmed, son of Shri Ishtiyak Ahmed, Shankar Lal Mehrotra, son of Late Shri Sunder Lal Mehrotra, Mahender Mahuria, son of Shri Ram Sevam Mahuria, Anwar Hussain, son of Late Shri Mohd. Ilyas, Nirmal Misra, son of Shri Ishwar Chand Misra, Pramendra Kumar Dixit, son of Shri Raj Narayan Dixit, Hari Mohan, son of Shri L.C. Vishwakarma and Rajesh Shukla, son of Shri Madhu Sudan Srivastva, who attempted to shout slogans from the Visitors' Gallery at about 15.45 hours on 20 March, 1995 and whom the Security Officers took into custody immediately, had committed a grave offence and are guilty of the contempt of the House.

This House further resolves that they be sentenced to simple imprisonment till 6.00 P.M. on 22 March, 1995 and sent to Tihar Jail, New Delhi."

After some discussion, the above Resolution was adopted as amended, which reads as follows:—

“This House resolves that the persons calling themselves Rajendra Sharma, son of Shri Moti Lal Sharma, Afzal Ahmed, son of Shri Ishtiyak Ahmed, Shankar Lal Mehrotra, son of Late Shri Sunder Lal Mehrotra, Mahender Mahuria, son of Shri Sevem Mahuria, Anwar Hussain, son of Late Shri Mohd. Ilyas, Nirmal Misra, son of Shri Ishwar Chand Misra, Pramendra Kumar Dixit, son of Shri Raj Narayan Dixit, Hari Mohan, son of Shri L.C. Vishwakarma and Rajesh Shukla, son of Shri Madhu Sudan Srivastva, who attempted to shout slogans from the Visitors' Gallery at about 15.45 hours on 20 March, 1995 and whom the Security Officers took into custody immediately, had committed a grave offence and are guilty of the contempt of the House.

This House further resolves that they be sentenced to simple imprisonment till 1.30 P.M. on 21 March, 1995.”

In Pursuance of the above decision of the House, contemnors who were under the custody of Watch & Ward, Parliament House were let off at 1.30 P.M. on 21 March, 1995.

647

LOK SABHA

(1996)

Point of privilege

Attempt to shout slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 31 July, 1996, the Deputy Speaker (Shri Suraj Bhan) informed the House as follows:—

“As the House is aware, at about 11.35 hours today, a visitor calling himself Hansa Dutt Joshi, son of Shri Purnanand Joshi Attempted to shout slogans from the Visitors' Gallery. The Security Officers took him into custody immediately and interrogated him. The visitor has made a statement and expressed regrets for his action.

I bring it to the notice of the House for such action as the House may deem fit.”

2. Therefore, the Minister of Parliamentary Affairs (Shri Srikanta Kumar Jena) moved the following resolution which was adopted by the House:—

“That this House resolves that the person calling himself Hansa Dutt Joshi, son of Shri Purnanand Joshi who attempted to shout slogans at about 11.55 hours today and whom the Security Officers took into custody immediately, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that he be let off with a stern warning on the rising of the House today.”

The matter was, thereafter, closed.

648

LOK SABHA

(1998)

Point of Privilege

Shouting of slogans and throwing of pamphlets from the D.V. Gallery.

Facts of the case and action taken by the House

On 15 July, 1998, the Chair (Shri V. Sathiamoorthy) informed the House as follows:—

“As the House is aware, at about 14.45 hours today, a visitor calling herself Lovely Anand, wife of Shri Anand Mohan, shouted slogans and threw some pamphlets from the Distinguished Visitors' Gallery. The Security Officers took her into custody immediately and interrogated her. The visitor has made a statement but has not expressed regrets for her action.

I bring it to the notice of the House for such action as the House may deem fit.”

2. The Minister of Parliamentary Affairs (Shri Madan Lal Khurana) moved the following motion which was adopted by the House:—

“This House resolves that the person calling herself Lovely Anand, wife of Shri Anand Mohan who shouted slogans and also threw some pamphlets from the Distinguished Visitors' Gallery, at about 14.45 hours today, and whom the Security Officers took into custody immediately, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that considering the fact that she is a former member of

Parliament she be let off on the rising of the House today."

649

LOK SABHA

(1998)

Point of Privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery

Facts of the case and action taken by the House

On 17 July, 1998, the Chair (Shri P.M. Sayeed) informed the House as follows:—

"As the House is aware, at about 12.55 hours today, two visitors calling themselves Devender Negi, son of Shri Sher Singh Negi and Brij Mohan Upreti, son of Shri Bal Kishan Upreti attempted to shout slogans and threw some leaflets from the Visitors' Gallery. The Security Officers took them into custody immediately and interrogated them. The visitors have not expressed regrets for their action.

I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of Parliamentary Affairs (Shri Madan Lal Khurana) moved the following motion which was adopted by the House:—

"This House resolves that the persons calling themselves Devender Negi aged 33 years, son of Shri Sher Singh Negi and Brij Mohan Upreti aged 34 years, son of Shri Bal Kishan Upreti who attempted to shout slogans and also threw some leaflets from the Visitors' Gallery, at about 12.55 hours today, and whom the Security Officers took into custody immediately, have committed a grave offence and are guilty of the contempt of the House.

This House further resolves that they be let off with a stern warning on the rising of the House today."

650

LOK SABHA

(2000)

Point of Privilege

Attempt to shout slogans and throwing of papers from the Visitors' Gallery.

Facts of the case and action taken by the House

On 9 August, 2000, the Deputy Speaker (Shri P.M. Sayeed), who was in the Chair, informed the House as follows:—

"As the House is aware, at about 11.25 hours

today, a visitor calling himself Velu Chandra aged 74 years, son of Late Shri Chinnanan, attempted to shout slogan and threw papers from the Visitors' Gallery. The Security Officers took him into custody immediately and interrogated him. The visitor has made statement but has not expressed regrets for his action.

I bring it to the notice of the House for such action as the House may deem fit."

2. The Minister of State in the Ministry of Parliamentary Affairs (Shri Santosh Kumar Gangwar) moved the following motion which was adopted by the House:—

"This House resolves that a person calling himself Velu Chandra, aged 74 years, son of Late Shri Chinnanan, who attempted to shout slogan and threw papers from the Visitors' Gallery, at about 11.25 hours today, and whom the Security Officers took into custody immediately, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that he be let off with stern warning on the rising of the House today."

651

RAJYA SABHA

(1967)

Point of privilege

Throwing of leaflets by two persons from Visitors' Gallery on the Floor of the House

Facts of the case and action taken by the House

On the 21st December, 1967, at about 6.15 P.M., when the House was discussing the Official Languages (Amendment) Bill, 1967, a person in the Visitors' Gallery shouted slogans and threw some leaflets on the floor of the House. He was immediately removed from the Visitors' Gallery by the Watch and Ward Staff and shortly thereafter, the Leader of the House (Shri Jaisukhlal Hathi) moved the following motion:—

"That this House resolves that the person who has disclosed his name to be Sardar Baint Singh and who threw leaflets from the Visitors' Gallery on the floor of the House at about 6.15 P.M. today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of gross contempt of this House.

This House further resolves that he be sentenced to simple imprisonment till the conclusion of the current session of the Rajya Sabha and detained in the Tihar Jail, Delhi."

2. While moving the motion, Shri Jaisukhlal Hathi said that the House should take a serious notice of such cases of misconduct on the part of the visitors who were allowed to enter the precincts of Parliament on the recommendations of the members of Rajya Sabha, otherwise the dignity of the House would suffer and the members would not be able to express their opinions in the House freely and fearlessly. He also urged that the members should be very careful in recommending visitors' cards and should ensure that the people for whom they recommend the cards would behave in a manner which befits the dignity of the House.

3. Shri Bhupesh Gupta, a member, said that the offender should not be convicted by the House without having been heard. He suggested that the matter might be referred to the Committee of Privileges for proper investigation.

4. Shri Jaisukhlal Hathi replied that in the House of Commons, U.K., in cases where contempt was committed in the actual view of the House, the House proceeded at once, without hearing the offender, to punish him for his contempt.

5. He also pointed out that while the discussion on his motion was going on another similar incident had occurred. He accordingly, moved the following motion in respect of the second incident:—

"That this House resolves that the person who has disclosed his name to be Mahendra Pratap Singh and who threw leaflets from the Visitors' Gallery on the floor of the House at about 6.55 P.M. today and whom the Watch and Ward Officer took into custody immediately, has committed a grave offence and is guilty of gross contempt of this House.

This House further resolves that he be sentenced to simple imprisonment till the conclusion of the current session of the Rajya Sabha and detained in the Tihar Jail, Delhi."

6. Both the motions were then put to the vote of the House and adopted on a division by 48 votes to 4 and 49 votes to 5 respectively.

7. In pursuance of the above resolutions, the Chairman, Rajya Sabha, issued warrants of commitment, addressed to the Superintendent Central Jail, Tihar, Delhi, in the following form:—

"WARRANT OF COMMITMENT

WHEREAS the Rajya Sabha has adopted the following motion today the 21 December, 1967:—

"This House resolves that the person who has disclosed his name to be *** and who threw leaflets from the Visitors' Gallery on the floor of the House at about *** today and whom the Watch and Ward Officer took into custody immediately has committed a grave offence and is guilty of gross contempt of this House.

This House further resolves that he be sentenced to simple imprisonment till the conclusion of the current session of the Rajya Sabha and detained in the Tihar Jail, Delhi."

NOW, therefore, I **** Chairman, Rajya Sabha, in pursuance of the above decision of the Rajya Sabha, by this Warrant of Commitment require the Superintendent, Central Jail, Tihar, to take into custody the said *** and to keep him safely in the Central Jail, Tihar, till the conclusion of the current session of the Rajya Sabha.

Herein fail not.

Given under my hand at New Delhi, the 21st day of December, 1967.

Sd/-
Chairman, Rajya Sabha.

To

The Superintendent,
Central Jail, Tihar,
Delhi.

8. The offenders were, accordingly, taken by the Watch and Ward Staff to, and lodged in the Central Jail, Tihar, Delhi.

9. On the 27th December, 1967, Shri Jaisukhlal Hathi informed the House that the Superintendent of the Central Jail, Tihar, Delhi had asked the Secretary, Rajya Sabha, as to the date and time when the two persons, namely, Sardar Baint Singh and Mahendra Pratap Singh, who had been committed to prison till the conclusion of that session of the Rajya Sabha, might be released from jail. Shri Hathi proposed that since the session of the Rajya Sabha was concluding that day, the Secretary might be directed to instruct the Superintendent of Jail to release the two persons concerned at 5 P.M. that day.

10. Shri B.K.P. Sinha raised the point that the session of the House would technically end with its prorogation by the President. Since the two persons concerned had been committed to prison, by the

House till the conclusion of the session, they could be released only after either the House was prorogued or a resolution was adopted amending the earlier resolutions committing them to prison.

11. Shri Jaisukhlal Hathi, thereupon, moved the following motion which was adopted by the House:—

"That Sardar Baint Singh and Shri Mahendra Pratap Singh be released at 5.00 P.M. today."

12. The Superintendent, Central Jail, Delhi was instructed accordingly through a letter by the Secretary, Rajya Sabha and the two persons concerned were released from jail.

652

RAJYA SABHA

(1967)

Point of privilege

Alleged manhandling of a student who threw leaflets into the House from the Visitors' Gallery by the Security Officers

Facts of the case and Ruling by the Chairman

On the 22nd December, 1967, the Chairman (Shri V.V. Giri) informed the House as follows:—

"Shri Rajnarain has sought to raise a question of privilege relating to the incidents in the House yesterday involving a student of the Banaras Hindu University, Shri Mahendra Pratap Singh, who threw leaflets into the Chamber and who was punished by this House for gross contempt of the House.

Shri Rajnarain's notice is based on a report¹ appearing in the *Hindustan* of the 22nd December, 1967.

I have personally enquired into the whole matter and I am satisfied that the allegations contained in the report are false. I have also seen the statement voluntarily given by Shri Mahendra Pratap Singh to the Watch and Ward Officer. He has not mentioned of any ill-treatment by the officers, as alleged in the report.

I refuse consent to Shri Rajnarain to raise this matter.

653

RAJYA SABHA

(1973)

Point of Privilege

Shouting of slogans and throwing of pamphlets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On the 30th March, 1973 at about 4.10 P.M., during the discussion in the House regarding action taken by Government on the Memorandum submitted to the President against the Chief Minister of Haryana, some visitors from the Visitors' Gallery, shouted slogans and threw pamphlets on the floor of the House. They were immediately taken into custody by the Watch and Ward Staff. After some

¹The English translation of the news report in the *Hindustan*, a Hindi daily, dt. 22-12-1967 was *inter alia* as follows:

"Mahendra Pratap Singh, a student of Banaras Hindu University who threw pro-Hindi leaflets from the Visitors' Gallery in the Rajya Sabha—Upper House of Parliament—was unconscious at the time the punishment was being announced in the House because, as reported by him he had been beaten.

Soon after the leaflets were thrown the Security Officers surrounded Shri Mahendra Pratap Singh and dragged him out of Visitors' Gallery. When I reached the spot from the Press Gallery, which is at a little distance from the Visitors' Gallery, Mahendra was lying on the floor and the Security Officer and some other persons had surrounded him. The student was lying motionless and the officers had been trying to find out the pass from his pockets. They took out a bundle but it was not a pass and so they started searching him again. Meanwhile the student regained consciousness and I heard him saying 'water water.' After some time water was brought and he was asked to get up and proceed downstairs. After he had walked only two steps he again fell down but after regaining consciousness he shouted, 'It is your humanity.' The Security Officer replied 'your humanity is to throw leaflets?' But another senior officer checked him.

The Security officers, escorting Mahendra towards the room of the Chief Security Officer, were enquiring his name, address etc., and in the mean time an official told him that they were press representatives and they would publish his detailed account and asked him the details. This official said 'I am the Editor of *Navbharat Times* and your photo would also be published'. At the same time a photographer had also been called there. On regaining full consciousness, Mahendra complained that he had been kicked with boots at his private part and knees.

Denying the beating incident one senior officer said that while he was being taken out of Visitors' Gallery he might have started fighting. Another official narrating the incident, said 'Sahib, we five persons had sat on him but he was prepared to throw a shoe in the House by releasing himself.'

time, the Minister of State in the Ministry of Parliamentary Affairs (Shri Om Mehta) moved the following Motion which was adopted by the House:—

“This House resolves that the persons calling themselves (1) Sheobaksha Jhagru and (2) Baldeo Singh, who raised slogans and threw some leaflets from the Visitors' Gallery on the floor of the House at about 4.10 P.M. today and whom the Watch and Ward Officers took into custody, have committed a grave offence and are guilty of the contempt of this House.

This House resolves further that they be detained in custody of the Watch and Ward Officer till the rising of the House today.”

654

RAJYA SABHA
(1982)

Point of Privilege

Shouting of slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 18th March, 1982, at 12.20 P.M., fourteen persons shouted slogans from the Visitors' Gallery. They were immediately taken into custody by the Watch and Ward staff.

2. Immediately after the incident occurred, several members expressed their concern over the incident. The Leader of the House (Shri Pranab Kumar Mukherjee) stated *inter alia* as follows:—

“Sir, the incident is really unfortunate and disturbing... I think during the lunch break, let the leaders of various groups kindly come to my room and we can discuss and then decide what course of action we should take. I agree... that there should be no debate on this issue. Let the House rise to the occasion and speak in one voice only. It is my appeal and suggestion to the members and I join the hon. Members who have expressed their views and concern on it.”

3. The Deputy Chairman (Shri Shyam Lal Yadav) then observed as follows:—

“I think the whole House has expressed its concern. This incident is the most unfortunate and unprecedented, and I hope the suggestions made by the Leader of the House will be welcomed and the matter will be taken into consideration; leaders of various parties will meet him and decide the modalities as to what should be done. I think we shall be having a

report from the Watch and Ward immediately available and then we shall consider it after lunch.

4. When the House reassembled after the lunch, the Leader of the House moved the following motion:—

“That this House resolves that the persons calling themselves (1) Rabinder, (2) Prem, (3) Rajpal, (4) Absar Hussain, (5) Pradeep, (6) Mahinder, (7) Anjay, (8) Satish, (9) Sushil, (10) Sudhir, (11) Swinder, (12) Karan Singh Tanwar, (13) Bharat Deep, (14) Harjeet Singh, who raised slogans in the Visitors' Gallery of the House at about 12.20 P.M. today, the 18th March, 1982, and whom the Watch and Ward Officer took into custody, have committed a grave offence and are guilty of gross contempt of this House.

That this House further resolves that they be sentenced to simple imprisonment till 12 noon on the 24th March, 1982 and detained in Tihar Jail, Delhi.”

5. During the course of discussion on the motion, Dr. Bhai Mahavir, a member stated *inter alia* as follows:—

“I was told by the Secretariat staff that some of the young men who had indulged themselves in this incident had been issued passes on which my signatures were appended. Sir, I regret the manner in which the passes were issued, but I would like to say that I had no notion at all, absolutely, about what their intention was... Sir, when we sign a form like this we are accepting the responsibility for their conduct... I am admitting that if there are people who have come to the Visitors' Gallery on the basis of forms issued under my signature, it was inadvertent on my part, but the only explanation I can give is that when the people come to us, there is no manner of knowing if they had any such thing in mind. If at all I had known, obviously I would have been the last person to encourage this or to permit them to use my signature for this purpose... So, in this matter as I said, I do express my regret that my signature appeared on that. But I would solemnly affirm that this thing was not known to me or to my other friend whose signature appeared on the forms of these people.”

6. Shri Kalraj Mishra, another member also informed the House that one of the offenders had been issued a pass on the basis of a form signed by

him. He added that generally people came to members for passes and he had also signed the form in the routine manner but he could not even imagine that such an incident would take place. He also joined other members in condemning the incident.

7. After some discussion the motion was adopted by the House.

8. In pursuance of the above decision of the House, the Chairman (Shri M. Hidayatullah) issued separate Warrants of Commitment against all the offenders, addressed to the Superintendent, Tihar Jail, Delhi, and the offenders were sent to jail.

655

RAJYA SABHA

(1982)

Point of Privilege

Shouting of slogans and throwing of leaflets from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On 23rd March, 1982, the Deputy Minister in the Department of Parliamentary Affairs (Shri Kalp Nath Rai) informed the House as follows:—

“Sir, as honourable members are aware at about 4.10 P.M. today, a lady shouted slogans from the Visitors' Gallery. The Watch and Ward staff of the Rajya Sabha have apprehended her. She calls herself as Jasbir Kaur and is a resident of Ludhiana. From the report of the Watch and Ward Officer it appears that she was in a state of mental distress and had some grievance against the Punjab Police. She has also expressed regrets for her misconduct. I, therefore, feel that it would suffice if she is let off with a warning.”

2. The Deputy Minister in the Department of Parliamentary Affairs then moved the following motion which was adopted by the House:—

“That this House resolves that the person calling herself Jasbir Kaur who raised slogan in and threw some typed matter from the Visitors' Gallery on the floor of the House at 4.10 p.m. today and whom the Watch and Ward Officer took into custody is guilty of committing the contempt of this House.

This House further resolves that she be let off with a warning.”

The matter was, thereafter, closed.

656

RAJYA SABHA

(1983)

Point of Privilege

Attempting to shout slogans from the Visitors' Gallery

Facts of the case and action taken by the House

On 26 August, 1983, the Deputy Chairman (Shri Shyam Lal Yadav) observed in the House as follows:—

“I have to inform members that today at 6.15 p.m. a young visitor calling himself Vijay Kumar Kesarwani s/o Shri Radhey Shyam, resident of 287, Muthi Ganj, Allahabad tried to shout from the Public Gallery. Before, however, he could cause any disturbance he was apprehended by our Watch and Ward and security staff, with commendable promptitude and exemplary presence of mind. From the statement he has furnished it appears that his intention was to draw attention to the alleged injustice done to him by not giving him any award by the Government for information about income-tax evasion passed on by him to the authorities concerned. Whatever may be his motive, I feel that if the House agrees, we may let him off with a stern warning by our Watch and Ward Officer.”

The House agreed and the matter was closed.

657

RAJYA SABHA

(1983)

Point of Privilege

Shouting of slogans and throwing of a chappal from the Visitors' Gallery on the floor of the House

Facts of the case and action taken by the House

On 21st August, 1983, the Leader of the House (Shri Pranab Kumar Mukherjee) informed the House as follows:—

“Mr. Deputy Chairman, Sir, through you I have to bring to the notice of the House an incident which occurred from the Visitors' Gallery today. At 12.35 p.m. a young visitor, Subhash Chandra, son of Shri Vijai Shankar, Village and P.O. Khanwar district Ballia, U.P., shouted slogans and threw a chappal from the Visitors' Gallery. He was apprehended by the Watch and Ward Staff posted in the Gallery.

From the written and oral statement of Subhash Chandra, it appeared that he was aggrieved on certain matters pertaining to the Lucknow University. He, therefore, wanted to attract the attention of the House to the situation there. Whatever his motive and intention might have been, he has committed a gross breach of privilege and serious contempt of the House. His action deserves condemnation and he requires severe and deterrent punishment for this offence he has committed in this House.

I consulted the leaders of the various groups in the House and the leaders are unanimous that Subhash Chandra be awarded a

punishment of imprisonment. I, therefore move the following motion for adoption in the House:—

'This House resolves that the person calling himself Subhash Chandra, son of Shri Vijai Shankar, of Village and Post Office Khanwar, Police Station, Nagara, District Ballia, U.P. who raised a slogan in and threw a *chappal* from the Visitors' Gallery on the floor of the House at about 12.35 p.m. today and whom the Watch and Ward Officer took into custody, has committed a grave offence and is guilty of the contempt of the House.

This House further resolves that Subhash Chandra be sentenced to simple imprisonment till the conclusion of the current Session of the Rajya Sabha and detained in the Tihar Jail, New Delhi,"

This House further resolves that Subhashsion.

WITNESS

658
LOK SABHA
(1970)

Point of privilege

Giving false evidence before Public Accounts Committee by a Government Officer

For details of the case please see summary No, 133 at pp. 258—264 *ante*.

659
LOK SABHA
(1980)

Point of privilege

Suggesting action by certain Government Officers against another Officer for giving evidence before a Parliamentary Committee

Facts of the case and ruling by the Speaker

On 10th July, 1980, the Speaker (Shri Bal Ram Jakhar) informed the House as follows:—

“Shri Jyotirmoy Bosu had given notice of a question of privilege dated 26 March, 1980, against two officers of the Ministry of Industry who, according to Shri Bosu, wrote

to the Ministry of Home Affairs on 21 September, 1979, to take ‘such action as the Ministry may like’ against another officer of the Ministry for giving certain evidence before the Sub-Committee of Committee on Public Undertakings of the Lok Sabha on 16 October, 1978.

I have been informed by the Ministry of Home Affairs that no disciplinary action has been taken or proposed to be taken against the officer concerned for giving evidence before the Sub-Committee of the Committee on Public Undertakings of Lok Sabha on 16th October, 1978.

I do not therefore give my consent under Rule 222 to raise the matter in the House as a question of privilege. I would, however, like to emphasise that all witnesses appearing before Parliamentary Committees are protected by the privilege of this House in respect of any statements made by them during their evidence before a Parliamentary Committee. I hope that there would be no occasion for any such complaints in future.”

The matter was thereafter closed.

MISCELLANEOUS

660
LOK SABHA
(1966)

Point of privilege

Taking part in the proceedings of Maha Moorakh Mandal by a member

Facts of the case and ruling by the Speaker

On the 9th March, 1966, Sardar Kapur Singh, a member, sought to raise a question of privilege against another member that by taking part in the proceedings of the *Maha Moorakh Mandal* held during Holi Festival, that member had, by implication, lowered the dignity of other members of the House.

2. Some members observed that during Holi Festival, it was customary for people to indulge in fun and frolic and that the matter should not have been allowed to be brought before the House.

3. Disallowing the question of privilege, the

Speaker (Sardar Hukam Singh) observed *inter alia* as follows:—

“It is very unfortunate that the hon. Member should have insisted that he must speak.

I had disallowed it. Perhaps now the hon. Members would appreciate the necessity of my exercising discretion in my chamber before anything is brought inside the House. I allowed it simply to demonstrate what things can be brought here and why I should decide what should be brought or not. I seek the cooperation of the hon. Members that the discretion must be exercised by me and if the members have any objection to my decision they might bring it to my notice so that I could explain to them. By this illustration it has become clear and I should be more strict and should not allow such things to be brought before the House.”